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**COLLABORATION OR CONTROL?: THE STRUGGLE
FOR POWER IN CATASTROPHIC DISASTER RESPONSE**

by

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December 2007

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CATASTROPHIC DISASTER RESPONSE**

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ABSTRACT

Past domestic catastrophic disasters have required massive Department of Defense (DoD) Title 10 involvement. During Hurricanes Andrew and Katrina, DoDs initial response, although critical, was criticized as slow. The increased risks to the United States of cataclysmic events have solidified DoDs mandatory response to future events. This has punctuated the importance of DoDs initial response capability. Historically, DoDs response to catastrophic disasters was instantaneous. This was in part due to the strong relationships they maintained with State and local civil authorities. This thesis examines how the once strong relationship between DoD and State civil authorities deteriorated over the years contributing to DoDs slow initial response to Hurricanes Andrew and Katrina. Changes to disaster statutes, doctrine, and authoritative policies along with a contentious debate over the DoDs role in the domestic disaster arena have aided in deteriorating their relationship. The thesis explores what can be done to reverse the trend and build a collaborative relationship between DoD and State civil authorities. It concludes by setting forth findings and recommendations focused on creating relationship building mechanisms between the DoD and State civil authorities aimed at improving DoD initial response for the next catastrophic disaster.

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I. INTRODUCTION

A. PROBLEM STATEMENT

Past catastrophic disasters, such as Hurricanes Andrew and Katrina required massive Department of Defense (DoD) Title 10 involvement. During those cataclysmic events, DoDs response was critical. It provided desperately needed capabilities and resources to overwhelmed State and local emergency responders. When, and if, Title 10 disaster response is immediate, structured, organized, and well integrated during a catastrophic event, it can mean the difference between life and death for many disaster victims. When Title 10 response is slow, disorganized, and not integrated during the first few days of a disaster, it can also mean the difference between life and death. Title 10 forces must be ready to respond to catastrophic disasters and States must be willing to ask for DoD assistance if needed.

Once DoD Title 10 forces are called, there is little to no time for State civil and DoD authorities to “spin-up” on rules of engagement (ROE). Nor is it the time to attempt to get a better understanding of how the military will integrate its resources into a State’s emergency management and response system. Therefore, it is critical that a collaborative relationship exist between State civil authorities and DoD Title 10 forces. As one local emergency manager stated, “An emergency is a lousy time to be exchanging business cards.”¹ Past experiences echo this sentiment. Take this quote from a doctor who experienced the chaos of the 1906 San Francisco earthquake. She stated, “The division of authority between army and municipality brought some terrible results...The military was called in to take partial command; the citizens did not know whom they were to obey. And certainly the military subordinates and guards were not made to understand the limits of their authority. The consequences were tragic.”²

¹ Ozzie E. Paez, Co-author of “An Exploratory Study of Local Emergency Managers’ Views of Military Assistance/Defense Support to Civil Authorities (MACA/DSCA)”, Telephone Interview by author, 17 April 2007.

² Philip L. Fradkin, *The Great Earthquake and Firestorms of 1906*. Berkley, CA: University of California Press, 2005, 65.

In August of 1992, when Hurricane Andrew struck the gulf coast, a military after action report stated that a faster response by the military was needed and that gridlock at all levels of government delayed massive response efforts by two-three days.³ Thirteen years later, in August of 2005, as Hurricane Katrina made landfall, similar uncertainty as to the military's role ensued, "As local, state, and federal governments responded in the days following Katrina, confusion surfaced as to what responsibilities the military has [had] and what capabilities it would provide in planning and responding to a catastrophic event."⁴ This confusion was apparent at the highest levels in DoD and State civil authorities.

Fortunately for most citizens, a majority of disasters never require DoD Title 10 assistance. Disaster response in the United States is structured so that disasters are handled at the lowest possible level. Towns and cities throughout the United States have over two million first responders⁵ trained and ready to provide the first line of response. If local resources are overwhelmed, then county and State civil assistance will be at the ready. If the State civil resources are overwhelmed, then the States will employ National Guard assets. If the Guard assets aren't enough, then the State will call on their Emergency Management Assistance Compacts (EMAC) with other States to bolster their responses. In the event more resources are needed, the States will ask for the federal government's assistance. In extreme cases, the Governor will ask the President to bring to bear the resources and capability of DoD title 10 forces.

This bottom-up layered response is designed to provide immediate assistance by those most familiar with the people and the area. Help is only to be given by outsiders when asked. Unfortunately, this method of waiting to respond until asked has been problematic during catastrophic disasters. This has been especially true during DoD Title 10 catastrophic disaster response in support of States. During Hurricane Andrew and

³ Department of the Army, *Forces Command Hurricane Andrew Response: JTF Andrew AAR*, Washington DC: Department of the Army, 16 November 1992, 4-5.

⁴ United States Government Accountability Office, *Hurricane Katrina: Better Plans and Exercises Needed to Guide the Military's Response to Catastrophic Natural Disasters*, Washington DC: United States Government Accountability Office, 15 May 2006, 1.

⁵ "Supporting First Responders Strengthening Homeland Security," *Homeland Security Site*, January 24, 2002 http://www.dhs.gov/xnews/releases/press_release_0048.shtml accessed 12 November 2006.

Hurricane Katrina states did not know what disaster response capabilities DoD Title 10 possessed. In addition, they were hesitant in asking for DoD assistance. As for DoD Title 10 forces, they did not anticipate having to respond. During both catastrophes, although heroic, these factors resulted in a slow DoD Title 10 response in the first few critical days of each disaster. Tragically, a slow response by any agency can lead to dire consequences. These tragic consequences are exemplified by Aaron Broussard's, president of Jefferson Parish, sad recollection on September 4, 2005 of one heartbreakingly event. He told of an elderly woman who during Hurricane Katrina was trapped in a nursing home waiting for someone to rescue her. Every day the elderly woman called her son, "...and said, "Are you coming, son? Is somebody coming?" And he said, "Yeah, Mama, somebody's coming to get you. Somebody's coming to get you on Tuesday. Somebody's coming to get you on Wednesday. Somebody's coming to get you on Thursday. Somebody's coming to get you on Friday." And she drowned Friday night. She drowned Friday night."⁶

After Hurricane Katrina, a number of reports and investigations were prompted to discover what went wrong and how to improve response prior to the next catastrophic disaster. One Congressional report listed 186 findings.⁷ Another report issued by the White House listed 17 "Hurricane Katrina Critical Challenges" and made 125 recommendations for improvement.⁸ Many of the findings and recommendations were aimed at improving DoD response. This prompted DoD and DHS through United States Northern Command (USNORTHCOM) and the Federal Emergency Management Agency (FEMA), respectively, to intensify their relationships in order to improve DoD Title 10 domestic response capabilities.

⁶ "Transcript from an interview with Michael Chertoff, Marc Morial, Mike Tidwell, Mark Fischetti, David Wessel, Haley Barbour, and Aaron Broussard," *Meet the Press*, September 4, 2005 <http://www.msnbc.msn.com/id/9179790/> accessed 5 October 2007.

⁷ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, Washington DC: United States Senate, May 2006 http://hsgac.senate.gov/_files/Katrina/FullReport.pdf accessed 4 August 2007, 589-605.

⁸ The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, Washington DC: The White House, February 2006, <http://www.whitehouse.gov/reports/katrina-lessons-learned/> accessed 6 August 2007, 51, 87.

DoD and DHS acted upon many of the post Katrina report recommendations. They increased formal interagency interaction, planning and exercises, and made increasing efforts to understand civil support operations and gain a better feel for each others capabilities and limitations. An example of this was DoD, in coordination with FEMA, placing a “Defense Coordinating Officer (DCO) - typically deployed as lead field coordinator for the DoD at the time of a disaster - in each of FEMA's ten regional offices for ongoing preparedness and response coordination in disasters.”⁹ This provided DoD with the ability to more efficiently assess and act upon any impending or in progress disasters. In addition it gave greater visibility to FEMA officials as to what capabilities DoD could provide. Co-locating the DCOs on a full time basis in FEMA regional offices assisted in bridging coordination and communication issues. These steps were good examples of how the DoD and Federal authorities began improving their relationships by collaborating in an effort to avoid future tragedies such as those witnessed after Katrina.

Regrettably, the same can not be said for State civil authorities and DoD. This is despite a post Katrina finding that cited issues between State civil authorities and DoD. One such issue was that of the role of the military in disaster response and who would be in charge of Title 10 and National Guard troops when they responded to the next catastrophic disaster. The Katrina report stated that the issue over who's in charge “...may have slowed the active duty military response and contributed to tension in the state-federal relationship.”¹⁰ Years after Katrina, tension still exists between DoD and State civil authorities over who's in control. Therefore it is critical to find ways to remove the tension between State civil authorities and DoD Title 10 forces and build a collaborative disaster response relationship. Doing so will be a step in the right direction towards improving DoD Title 10 response for the next catastrophic disaster.

⁹ Federal Emergency Management Agency, *Ready for 2006 Hurricane Season*, Washington DC, Federal Emergency Management Agency, April 12, 2006
<http://www.fema.gov/news/newsrelease.fema?id=25061> accessed 10 April 2007.

¹⁰ House of Representatives, A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, Washington DC, U.S. House of Representatives, February 15, 2006, 222.

B. RESEARCH QUESTION AND PURPOSE

This thesis examines: what can be done to build a collaborative relationship between DoD and State civil authorities so that DoD Title 10 response can be improved for the next catastrophic disaster? It argues that it is critical for DoD Title 10 forces and State civil authorities to build a collaborative response relationship. In order to establish a context for their relationship, this thesis examines the historical evolution of the relationship between Title 10 forces and State civil authorities. It identifies the distinct phases through which this relationship has undergone and analyzes how and why the relationship evolved from one of collaboration to ambiguity. This thesis then examines the Title 10 response to Hurricanes Andrew and Katrina and analyzes how the relationship between Title 10 forces and State civil authorities slowed DoDs response. In addition, it examines how post Katrina debates over the military's role in disaster response have worsened an already tenuous relationship focusing more on who is in control if DoD responds rather than how to improve their response. Finally, this thesis presents findings that explore reasons why DoD Title 10 and State civil authorities do not currently have a collaborative domestic disaster response relationship. It offers policy recommendations based on those findings aimed at improving the historically complex relationship. This is done with hopes that those recommendations, if implemented, may be used to improve DoD Title 10 response before the next catastrophic disaster.

C. THESIS OUTLINE

This thesis is organized into five chapters. The current chapter sets the stage by providing a problem statement, posing a research question, and establishing the purpose of the thesis. It also summarizes each of the five thesis chapters and contains a literature review to establish DoDs Title 10 civil support role in domestic disasters and its connection to State civil authorities.

Chapter II emphasizes the criticality of building a collaborative response relationship between DoD Title 10 forces and State civil authorities. This is based on research that illustrates the potential for greater DoD Title 10 involvement in domestic disaster response due to the ever increasing risk future catastrophic disasters. The

National Planning Scenarios, the 2007 National Intelligence Estimate, and data concerning natural disasters are examined to illustrate this point.

Chapter III is divided into four historical phases that trace the Federal military's role in domestic disaster response. It sheds insight on the changing domestic response role of the Federal military and examines how and why the response relationship between the military and State civil authorities slowly transformed from collaboration to ambiguity contributing to DoDs eventual slow response to Hurricane Andrew. This is done by analyzing the Federal military response to a variety of past disasters and by examining the impact legislative and doctrinal changes have made on the relationship over the years.

Chapter IV examines DoD Title 10 initial response to Hurricanes Andrew and Katrina. It describes DoDs heroic efforts and contributions and also examines their response shortfalls. Specifically, it examines why DoDs response was characterized as slow and how the relationship between DoD and State civil authorities contributed to a slow response. Finally, chapter IV analyses how post Katrina debates over the military's role in disaster response have worsened an already tenuous relationship focusing more on who is in control if DoD responds rather than how to improve their response. It does so by establishing how the debate began post Hurricane Andrew, resurfaced during Katrina, intensified after Katrina and proven to be detrimental.

Chapter V concludes this thesis by presenting findings directed to answer why DoD Title 10 and State civil authorities do not currently have a collaborative domestic disaster response relationship. It offers policy recommendations based on those findings. The recommendations are focused on how to create relationship building mechanisms that will lead to disaster response collaboration and move away from the issue of control. This is done with hopes that those recommendations, if implemented, will be used to improve DoD Title 10 response before the next domestic catastrophic disaster.

D. LITERATURE REVIEW

A review of Federal, DoD, and State documents was conducted to establish DoDs Title 10 civil support role in domestic disasters and its connection to State civil

authorities. Federal and DoD documents reviewed specifically defined DoDs Title 10 role, limitations, and use. They repetitively stated that DoD support was only to be used when State, and other response resources were overwhelmed. Federal and DoD documents were clear as to when DoD civil support could be used and how to request it. However, even though States are the primary user of Title 10 support during a catastrophic disaster, there was no requirement to build a collaborative relationship between DoD and State civil authorities.¹¹ An exploratory review of civilian emergency management literature and State and local emergency management plans indicated little to no mention of DoD Title 10 role in support of States during catastrophic disasters. When the military/Army was mentioned, these documents either referenced the Salvation Army or the Army Corps of Engineers or the National Guard giving little consideration to DoDs Title 10 role in catastrophic disaster response.

1. DoD Support to Civil Authorities Defined

A plethora of federal statutes, Homeland Security Presidential Directives, Department of Homeland Security documents, and Department of Defense documents, define DoDs current domestic disaster response role. When the military assists domestic civil authorities, it is considered civil support (CS) and/or Defense Support of Civil Authorities (DSCA). DSCA is defined in the National Response Plan (NRP) as, “...Department of Defense (DoD) support, including Federal military forces, DoD civilians and DOD contractor personnel, and DOD agencies and components, for domestic emergencies and for designated law enforcement and other activities.¹² The NRPs 2004s definition of DSCA replaced the use of Military Assistance to Civil Authorities (MACA) which includes Military Support to Civil Authorities (MSCA) and Military Assistance to Law Enforcement (MACLEA).

¹¹ Department of Homeland Security, *National Response Plan*, Washington DC, Department of Homeland Security, December 2004, 41, “Military Support to Civil Authorities,” DoD Directive 3025.1, 15 January 1993, 12, “Homeland Operations,” AFDD 2-10, 21 March 2006, 25, “Air Force Emergency Management Program Planning and Operations,” AFI 10-2510, 24 January 2007, 39, 44.

¹² Department of Homeland Security, *National Response Plan*, 65.

2. Federal Statutes

a. *The Robert T. Stafford Act Disaster Relief and Emergency Assistance Act*

There are several federal statutes that shape DoDs role in domestic disaster response operations. The Robert T. Stafford Act Disaster Relief and Emergency Assistance Act (Stafford Act) is the primary legal authority for the Federal government to use DoD and other federal agencies to assist in domestic disaster relief in the United States. The Stafford Act authorizes the President to use Federal assets to supplement State and local efforts and capabilities to save lives, protect property, public health, and ensure safety thereby alleviating damage, loss, hardship, and suffering.¹³ Under the Stafford Act, once a major disaster is declared, the President can direct the DoD to support State and local response and recovery efforts by providing personnel, equipment, supplies, facilities, and managerial, technical, and advisory services. In addition, the DoD can be used to perform emergency work on private and public land for up to 10 days. This is only if, "...the President determines that such work is essential for the preservation of life and property."¹⁴

However, before the President can approve Federal assistance, the Stafford Act requires that the President find that the, "...disaster is of such severity and magnitude that effective response is beyond the capabilities of the State," and that the governor has taken appropriate response actions to include directing the execution of the State's emergency plan.¹⁵ It also requires the governor to provide information on the nature and amount of State resources that have been or will be committed to the disaster and certify that the State will comply with cost sharing requirements. Once all these requirements have been met, Federal, to include DoD, resources are authorized. All Federal resources must then be coordinated through a Federal Coordinating Officer

¹³ Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and Related Authorities FEMA 592, June 2007 http://www.fema.gov/pdf/about/stafford_act.pdf accessed 20 September 2007.

¹⁴ Ibid., 40.

¹⁵ Ibid., 26.

(FCO) who is authorized to work with a State Coordinating Officer (SCO). The Stafford Act does not require any form of collaboration between DoD and State civil authority.

b. The Posse Comitatus Act

The Posse Comitatus Act (PCA) of 1878 is another statute that governs DoD's domestic response role. It places limitations on the domestic use of Title 10 forces prohibiting them from performing certain functions during a disaster response. It states that, "Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both."¹⁶ Posse Comitatus is defined as the power of the county or its citizens summoned by the sheriff to assist the authorities in suppressing a riot, or executing any legal precept which is forcibly opposed.¹⁷ PCA was enacted in the years following the Civil War as a result of the increased use of the military in domestic affairs during the Reconstruction period.¹⁸

PCA originally prohibited the Army from posse comitatus activities. However, in 1956 the Air Force was added and in 1981, Title 10 USC § 375 restricted the domestic use of the Navy and Marines. It directed the Secretary of Defense to prescribe regulations to prohibit direct participation in search, seizure, arrest, or other similar activities by a member of the Army, Navy, Air Force, or Marine Corps unless their participation is otherwise authorized by law.¹⁹ PCA does not apply to military operations

¹⁶ Cornell University Law School, *U.S. Code Collection*, http://www4.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00001385---000-.html accessed 27 August 2007.

¹⁷ Dictionary.com <http://dictionary.reference.com/browse/Posse%20Comitatus%20> accessed on 28 August 2007.

¹⁸ "The Posse Comitatus Act: A Resource Guide," *LLRX.com*, <http://www.llrx.com/features/posse.htm> accessed August 2007.

¹⁹ Cornell University Law School, *U.S. Code Collection*, http://www4.law.cornell.edu/uscode/html/uscode10/usc_sec_10_00000375---000-.html accessed 28 August 2007.

or to National Guard personnel when they are not under Title 10 status. Some exceptions to PCA have been made by Congress. Congress has authorized the DoD to use its resources for the following:

- Assist with drug interdiction and other law enforcement functions (10 U.S.C. §124 and 10 U.S.C. §§371-378 (excluding 375))
- Protect civil rights or property, or suppress insurrection (the Insurrection Statutes; 10 U.S.C. §§331-334)
- Assist the U.S. Secret Service (18 U.S.C. §3056 Notes)
- Protect nuclear materials and assist with solving crimes involving nuclear materials (18 U.S.C. §831)
- Assist with some terrorist incidents involving weapons of mass destruction (10 U.S.C. §382)
- Assist with the execution of quarantine and certain health laws (42 U.S.C. §§97-98)²⁰

PCA ensures that law enforcement is left to the States per Constitutional Amendment 10 that states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”²¹ It imposes specific restrictions on Title 10 forces that serve as constant reminders to States that DoD Title 10 forces were once used by the Federal government to usurp State rights. PCA adds a legislative barrier between Title 10 forces and the States. It causes States to be weary of DoD involvement in disaster response and DoD to take pause before taking action and/or committing resources.

²⁰ “Homeland Defense: DOD Needs to Assess the Structure of U.S. Forces for Domestic Military Missions,” *United States Government Accountability Office*, July 11, 2003, <http://www.gao.gov/new.items/d03670.pdf> accessed 28 August 2007, 12.

²¹ “The United States Constitution,” *The U.S. Constitution on Line*, <http://www.usconstitution.net/const.html#Am10> accessed 10 October 2007.

c. The John Warner National Defense Authorization Act

The John Warner National Defense Authorization Act for Fiscal Year 2007 (NDAA) ²² also governs the military's Title 10 role in disaster response. This Act changed the dynamics for which Title 10 military personnel can be used during a domestic disaster response. It changed Title 10, United States Code Chapter 15 previously known as the "Insurrection Act" to the Enforcement of the Laws to Restore Public Order. Section 1076 of the 2007 NDAA authorized the president to:

...employ the armed forces, including the National Guard in Federal service, to restore public order and enforce the laws of the United States when, as a result of a natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident, or other condition in any State or possession of the United States, the President determines that-- domestic violence has occurred to such an extent that the constituted authorities of the State or possession are incapable of maintaining public order...²³

Section 333 of Title 10 previously authorized the President to use the militia or the armed forces, or both in suppressing insurrection, domestic violence, unlawful combination, or conspiracy in a State if public order could not be maintained by State authorities. ²⁴ The changes have expanded the potential use of the armed forces in a disaster response situation to go beyond disaster relief and move them into a law enforcement role at the President's discretion. Previously, the President could only do so in cases of insurrection, domestic violence, conspiracy, and/or uprising. This statute is seen as contentious by many States who view the change as a move by the Federal government as an attempt to usurp the rights of the Governor.

²²"The John Warner National Defense Authorization Act for Fiscal Year 2007," *The Library of Congress*, <http://thomas.loc.gov/cgi-bin/query/F?c109:6:/temp/~c109sZ7AW9:e939907> accessed 27 Aug 2007.

²³ The John Warner National Defense Authorization Act for Fiscal Year 2007, section 1076.

²⁴ Cornell University Law School, *U.S. Code Collection*, http://www4.law.cornell.edu/uscode/html/uscode10/usc_sec_10_0000333---000-.html accessed 27 August 2007.

3. Federal Documents

a. *Homeland Security Presidential Directives (HSPD) 5, 8*

Along with Federal statutes, Homeland Security Presidential Directives (HSPD) 5, 8 and the National Response Plan (NRP) establish the DoDs domestic disaster response role. HSPD-5, Management of Domestic Incidents, directs the Secretary of Defense to, "...provide military support to civil authorities for domestic incidents as directed by the President or when consistent with military readiness and appropriate under the circumstances and the law."²⁵ It also states that the Secretary of Defense will retain command of military forces during civil support operations. In addition, HSPD-5 directs the DoD to use the National Incident Management System in their domestic incident management and emergency response, recovery, and mitigation activities and when providing civil support to State and local authorities.²⁶ Whereas, HSPD-8, National Preparedness simply directs the DoD to provide the Secretary of Homeland Security information that describes the organizations and functions within DoD that could provide support to civil authorities during a domestic "crisis".²⁷

b. *National Response Plan*

The NRP restates and expands on DoDs domestic disaster response role as stated in HSPD-5 and 8. It states that DoD has significant resources that may be available to support the Federal response to a domestic disaster, that DoD will assist when directed by the President, or when appropriate under the law, and that DoD will be commanded by the Secretary of Defense during civil support operations.²⁸ It also states

²⁵ The White House, *Homeland Security Presidential Directive/HSPD-5*, Washington DC, The White House, February 2006 <http://www.whitehouse.gov/news/releases/2003/02/20030228-9.html> accessed 10 April 2007.

²⁶ Ibid., 1.

²⁷ The White House, *Homeland Security Presidential Directive/HSPD-8*, Washington DC, The White House, February 2006 <http://www.whitehouse.gov/news/releases/2003/12/20031217-6.html> accessed 28 August 2007.

²⁸ Department of Homeland Security, *National Response Plan*, Washington DC, Department of Homeland Security, December 2004, 10.

that DoD will provide civil support when requests for response come from a lead or primary federal agency. Once the lead or primary agency is placed in charge of disaster operations, DoD is placed in a supporting role. It will fill requests for assistance when tasked by each primary federal agency. DoD can not directly coordinate support with State civil authorities regardless of the size and scope of the disaster. They must go through other Federal agencies. The same applies for State civil authorities when requesting DoD assistance. They must coordinate through a Federal agency in order to request DoD Title 10 assistance. The only exception is Emergency Support Function (ESF) #3, Public Works and Engineering, where the Army Corps of Engineers is the primary agency with DoD showing as a coordinating not a support agency.²⁹

The NRP makes clear, DoD civil support is normally to be provided only when local, State, and Federal resources are overwhelmed. It does not interfere with DoD operations, and on a reimbursable basis as authorized by law.³⁰ It also states that DoD is a support agency on all ESF and will only provide assistance to States upon approval from the Secretary of Defense.³¹ Finally, the NRP emphasizes that a relationship needs to exist between DHS/FEMA and DoD and not State civil authorities who will receive direct DoD assistance during a catastrophic disaster.

4. DoD Documents

a Strategy for Homeland Defense and Civil support and 2006 Quadrennial Defense Review

Within DoD there are many documents that have shaped its disaster response role. In 2005, DoD released its Strategy for Homeland Defense and Civil support. It was built upon several assumptions. One assumption indicated that the DoD anticipated that the President would direct them to provide “substantial” support to civil authorities during major catastrophic events. DoD planned to do this through a carefully

²⁹ Department of Homeland Security, *National Response Plan*, p. ESF-v.

³⁰ Ibid., 42.

³¹ Ibid., ESF-iv.

planned, practiced, and integrated national response.³² However, in almost stark opposition, DoDs 2006 Quadrennial Defense Review (QDR) Report stated that DoD wanted other agencies and state and local governments to build the capacity to respond to domestic incidents so that they could perform their assigned responsibilities. This would allow for minimal reliance on military support to civil authorities as opposed to that which was needed during Hurricane Katrina.³³

b DoDD 3025.15, Military Assistance to Civil Authorities

DoDs policies and responsibilities for providing defense support to civil authorities are contained within three primary DoD directives (DoDD). They include: DoDD 3025.15, Military Assistance to Civil Authorities, DoDD 3025.12, Military Assistance for Civil Disturbances (MACDIS), and DoDD 3025.1, Military Support to Civil Authorities. DoDD 3025.15 governs all DoD military assistance to civil authorities. It mandates that all requests for assistance from civil authorities must be evaluated and approved using six criteria:

- Legality
- Lethality
- Risk to DoD Forces
- Cost
- Appropriateness
- Impact to DoD Readiness

The criteria are designed to ensure DoDs readiness is not compromised and that their response is conducted in accordance with established laws. The need of the requester is taken into consideration, but is not a determinant as to whether DoD Title 10 assistance will be rendered.

³² Department of Defense, *Strategy for Homeland Defense and Civil Support*, Washington DC, Department of Defense, June 2005 <http://www.defenselink.mil/news/Jun2005/d20050630homeland.pdf> accessed 24 October 2007, 9.

³³ Department of Defense, *Quadrennial Defense Review Report*, Washington, DC, Department of Defense, February 6, 2006 <http://www.globalsecurity.org/military/library/policy/dod/qdr-2006-report.pdf> accessed 6 November 2007, 25.

The Secretary of Defense is the approval authority for all DoD civil support requests with the exception of those that are in direct response to natural or man-made disasters. In that event, the Secretary of the Army would be the approval authority.³⁴ In addition, responding through written formal requests, DoDD 3025.15 authorizes the DoD component or military commanders to provide civil support during imminently serious conditions. It is referred to as immediate response authority. This authority allows a commander to respond to support requests from civil authorities if it will save lives, prevent human suffering, or mitigate property damage. Civil authorities can verbally request the support, but must follow it with a written request. Upon exercising immediate response authority, the commander must report the request and the nature of the response to the appropriate military authority.³⁵

c. DoDD 3025.12, Military Assistance for Civil Disturbances

DoDD 3025.12, Military Assistance for Civil Disturbances outlines DoD's policy and responsibilities when assisting Federal, State, and local governments and their law enforcement agencies during civil disturbances, including terrorist incidents.³⁶ The directive states that any MACDIS requests by State or Federal civil law enforcement will come through the Attorney General to the Secretary of Defense. In addition, civilian authority will maintain primacy during military support to law enforcement operations.³⁷ It also directs that the military not be used for MACDIS without Presidential authorization unless under emergency circumstances. Emergency circumstances are considered, "When the use of Military Forces is necessary to prevent loss of life or wanton destruction of property, or to restore governmental functioning and public order."³⁸ This "emergency authority" should only be exercised if civil authorities can not control the situation and prior approval from the President can not be obtained.³⁹ Finally,

³⁴ "Military Assistance to Civil Authorities," DoD Directive 3025.15, 18 February 1997, 3.

³⁵ "Military Assistance to Civil Authorities," 4.

³⁶ "Military Assistance to Civil Disturbances," DoD Directive 3025.12, 4 February 1994, 1.

³⁷ *Ibid.*, 3.

³⁸ *Ibid.*, 4.

³⁹ *Ibid.*, p 4.

it prohibits DoD from taking charge of any function of civil government unless under extreme emergency making sure to facilitate civil control at the earliest possible time.⁴⁰

d. DoDD 3025.1, Military Support to Civil Authorities

DoDD 3025.1 delineates the policy and responsibilities governing DoDs response to major domestic disasters and emergencies, although it was published on January 15, 1993.⁴¹ The directive states that DoD support to civil authorities under the above circumstances are subject to the priorities of the President and the Secretary of Defense contingent on the availability of resources.⁴² In addition, civil resources must also first be utilized and FEMA, or the lead federal agency, must determine if the capabilities of civil authorities are overwhelmed, before civil support is provided.⁴³ DoDD 3025.1 also states that support to civil authorities is ordinarily provided on a reimbursable base. However, it clearly states that the lack of reimbursement will not preclude DoD from providing support. This includes requests for assistance through normal DoD channels or through the immediate response authority discussed earlier.

The directive also includes the authority for the DoD Executive Agent (Secretary of the Army) to respond to any non-declared domestic major disaster or emergency in the event of an attack or other emergency circumstances.⁴⁴ Finally, DoD 3025.1 establishes links between the DoD and non-State civil authorities in order to facilitate their domestic disaster response role. It directs planning and response ties with the Red Cross and FEMA.⁴⁵ It also assigns Reservists to FEMA and other government offices for civil support liaison and planning purposes. What DoDD 3025.1 does not do

⁴⁰ “Military Assistance to Civil Disturbances,” DoD Directive 3025.12, 4 February 1994, 5.

⁴¹ “Military Support to Civil Authorities,” 2.

⁴² Ibid., 5.

⁴³ Ibid., 6.

⁴⁴ Ibid., 10.

⁴⁵ Ibid., 12.

is establish direct ties with State civil authorities apart from advocating that local military installations make contacts with State and local officials for planning and response purposes.

5. Emergency Management Literature

An exploratory review of civilian emergency management literature and State/local emergency management plans indicated little to no mention of DoD Title 10 role in support of States during disasters. Of the emergency management “how to” and planning texts reviewed, most made no mention of military disaster assistance to State or local authorities.⁴⁶ Those that did raise the use of the military during disaster response had varying approaches. One text focused on the military’s “martial law” role, emphasizing how, even during Hurricane Katrina, martial law was never declared because “Americans are extremely hesitant to turn over total control to government officials, police, and the military.”⁴⁷ Another text that dealt with transportation disaster response cautioned against using the military during a disaster response. The author sighted a number of concerns when using “a standing army” for disaster response. A standing Army is heavily administrative during non conflict situations and will have minimal operational manpower. Many military supplies are inappropriate for civilian populations such as not having special dietary foods. Finally, the author warned putting the army in control is a mistake, “martial law has been prematurely declared in numerous incidents. Its effects can be more negative than positive.”⁴⁸ DoD Title 10 disaster response and how it was connected to State civil authorities was not mentioned in any of the texts.

⁴⁶ Paul A. Erickson, *Emergency Response Planning for Corporate and Municipal Managers*. Burlington, MA: Elsevier Butterworth-Heinemann, 2006., Ronald W. Perry, and Michael K. Lindell, *Emergency Planning*. Hoboken, NJ: John Wiley and Sons, Inc., 2007., Anna J. Schwab, Katherine, Eschelbach, and David J. Brower, *Hazard Mitigation and Preparedness: Building Resilient Communities*. Hoboken, NJ: John Wiley and Sons, Inc., 2007., William H Stringfield, *Emergency Management and Planning*. Rockville, MA: Government Institutes, 2000.

⁴⁷ David A. McEntire. *Disaster Response and Recovery: Strategies and Tactics and Resilience*. Hoboken, NJ: John Wiley and Sons, Inc., 2007, 76.

⁴⁸ Jay Levinson and Hayim Granot, *Transportation Disaster Response Handbook*. San Diego, CA: Academic Press, 2002, 62.

6. State and Local Emergency Management Plans

To follow suit with most “how to” emergency management and planning texts, a exploratory review of State and local emergency management plans also made sparse mention of Title 10 military response during a disaster. New Mexico’s all-hazard plan focused on utilizing local military installation resources and discussed DoDs involvement in establishing a National Defense Area. It does not include how to integrate DoD Title 10 forces into State response if required.⁴⁹ Alabama’s plan did provide the definition of DSCA. However, it went no further than to state DoD may provide additional logistical support and that the Alabama National Guard is responsible to coordinate that support.⁵⁰ Finally, Colorado’s plan made no differentiation between DoD and Federal assistance. It categorized all support above State level as Federal assistance.⁵¹

The results were much the same for city and county disaster plans. Provisions for DoD response and support were also absent. Of nine city and county emergency management plans (taken from seven different states) only one plan made mention of military operations in support of local authorities with regard to responding during a disaster.⁵² The exception was Seattle, Washington’s Disaster Readiness and Response Plan (DRRP). It contained an entire military support annex that explained how to request military support during a disaster, and what authority governs it. Seattle’s DRRP even

⁴⁹ “New Mexico All-Hazard Emergency Operations Plan,” State of New Mexico, Department of Public Safety, Jun 1, 2004, <https://www.llis.dhs.gov/docdetails/details.do?contentID=16350> accessed 7 August 2007.

⁵⁰ “Alabama Emergency Operations Plan,” Alabama Emergency Management Agency, April 20, 2006 <https://www.llis.dhs.gov/docdetails/details.do?contentID=16164> accessed 7 August 2007.

⁵¹ “State of Colorado Emergency Operations Plan,” State of Colorado, Division of Emergency Management, May 1, 2006 <https://www.llis.dhs.gov/docdetails/details.do?contentID=21512> accessed 7 August 2007.

⁵² Department of Homeland Security. Boulder, Colorado Emergency Operations Plan. Washington D.C.: Department of Homeland Security. January 2006, and City of Albuquerque All-Hazards Emergency Operations Plan. December 2005, City of Austin Emergency Operations Plan, Master Plan. February 2002, Empire County Comprehensive Emergency Management Plan. January 2004, Pahrump, Nevada Comprehensive Emergency Management Plan. June 2005, City and County of San Francisco Emergency Operations Plan. January 2005, Ashtabula County All Natural Hazards Mitigation Plan. January 2006, Los Angeles County Operational Area Emergency Response Plan: Tsunami Annex. March 2006, City of Portland, Oregon Basic Emergency Operations Plan. September 2006, Horry County, South Carolina Emergency Management Plan. June 2006 <https://www.llis.dhs.gov/member/secure/detail.cfm> accessed 10 April 2007.

delineated responsibilities for emergency management authorities and local military installation commanders with regards to military support during disasters.⁵³ However, as indicated above, Seattle's incorporation of military support during disasters in their emergency management plan was the exception, not the norm.

⁵³ Department of Homeland Security. *Seattle Disaster Readiness and Response Plan*. Washington DC: Department of Homeland Security, December 2002, https://www.llis.dhs.gov/member/secure/detail.cfm?content_id=16592 accessed 10 April 2007, 167.

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II. INCREASED POTENTIAL FOR DOD TITLE 10 DISASTER RESPONSE

A. INTRODUCTION

Although Federal and DoD documents clearly established DoDs Title 10 civil support role in domestic disasters, they did not emphasize the need for DoD Title 10 forces and State civil authorities to build a collaborative response relationship. This is despite a 2006 United States Government Accountability Office report finding that there was, “...a lack of understanding within the military and among federal, state, and local responders as to the types of assistance and capabilities that DOD might provide in the event of a catastrophe...some of the military’s available assets were never requested or proactively deployed.”⁵⁴ And despite a 2006 Congressional investigation into the preparation and response of Hurricane Katrina indicating that the DoD is relying on State civil authorities in order to make the most efficient and effective use of military support. The report stated:

As robust as the military capability is, there are limitations, many of which are highlighted in the specific findings below. The most important limit to the military’s ability to manage domestic disaster response is the nation’s traditional reliance on local control to handle incident response. The federal government, with the Department of Defense (DOD) serving as part of the federal response team, takes its directions from state and local leaders. Since that is our nation’s tradition, DOD does not plan to be the lead agency in any disaster situation and expects to assist as local authorities request and direct. Furthermore, DOD lacks the detailed knowledge of local conditions essential to effective relief operations.⁵⁵

This chapter emphasizes the criticality of building a collaborative relationship between DoD Title 10 forces and State civil authorities so that DoD response can be

⁵⁴ United States Government Accountability Office, *Catastrophic Disasters: Enhanced Leadership, Capabilities, and Accountability Controls Will Improve the Effectiveness of the Nation’s Preparedness, Response, and Recovery System*, Washington DC: United States Government Accountability Office, September 2006, 27.

⁵⁵ House of Representatives, A Failure of Initiative: *Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, 201.

improved for the next catastrophic disaster. This is based on research that illustrates the potential for greater DoD Title 10 involvement in domestic disaster response due to the ever increasing risk of future domestic catastrophes. The National Planning Scenarios (NPS), the 2007 National Intelligence Estimate (NIE), and data concerning natural disasters all indicate that there is an increased risk of such events. In part, this is due to the elevated threat of asymmetric terrorist attacks on the United States and the ever present risk of manmade and natural disasters. As with past catastrophic disasters, these events are certain to overwhelm State and local response resources punctuating the need for DoD and State civil authorities to build a collaborative relationship aimed at improving DoD response.

B. NATIONAL PLANNING SCENARIOS SET THE STAGE

September 11th, 2001 proved to the United States that its shores were not impenetrable to those who wanted to inflict catastrophic destruction upon its people. Hurricane Katrina demonstrated that even a great superpower could be caught unprepared to respond to nature's awesome fury. Those two catastrophic events induced a sense of vulnerability in the United States so much so that the occurrence of another catastrophic event and the ability to effectively respond to it are of major concern. In 2005, the Homeland Security Scenarios Working Group created a document called the NPS. It enumerates fifteen potential terrorist attacks and natural disasters that the United States may be faced with in the near future. The document is designed to be used as a response capability building and planning aid for Federal, State, and local officials. The fifteen scenarios range from the detonation of a 10-kiloton improvised nuclear device, an outbreak of Foot and Mouth disease, to a major hurricane. They are intended to assist officials in identifying the scope, magnitude, and complexity of a potential disaster so recurring capability response requirements can be built and exercised.⁵⁶ Each scenario is outlined as follows:

⁵⁶ "National Planning Scenarios," *Department of Homeland Security*, March 2006 <https://www.llis.dhs.gov/member/secure/getfile.cfm?id=13712> accessed 4 October 2007, ii.

- Scenario Overview
 - General Description
 - Detailed Attack Scenario
- Planning Considerations
 - Geographical Considerations/Description
 - Timeline/Event Dynamics
 - Meteorological Conditions (where applicable)
 - Assumptions
 - Mission Areas Activated
- Implications
 - Secondary Hazards/Events
 - Fatalities/Injuries
 - Property Damage
 - Service Disruption
 - Economic Impact
 - Long-Term Health Issues⁵⁷

The first scenario involves the detonation of a 10-kiloton improvised nuclear device in a large metropolitan area. This scenario estimates hundreds of thousands dead, 100,000 in need of decontamination, 250,000 required to shelter in place, and one million people having to self-evacuate. The contaminated area spans 3,000 square miles. The economic impact is in the hundreds of billions of dollars and the recovery timeline is estimated to take years.⁵⁸ With an event of this magnitude immediate and direct DoD Title 10 involvement would be unavoidable. However, in the section of the NPS entitled Mission Areas Activated it subtly states, “After the detonation, officers will provide reconnaissance, protection, and deterrence measures at the boundaries of the site. Perimeters will need to be established...It is likely that the National Guard and perhaps the military will be involved directly in these areas. A declaration of martial law may be

⁵⁷ “National Planning Scenarios,” *Department of Homeland Security*, iii-IV.

⁵⁸ Ibid., 1-1.

considered.”⁵⁹ This should indicate to State civil authorities that DoD Title 10 response to their States will occur and that collaborative relationships must be built so that DoD response will arrive when needed.

Out of the remaining NPS the likelihood of immediate DoD Title 10 involvement is almost certain in 9 of the 14 scenarios. This is based on size and scope of the disasters and/or due to the unique capabilities of DoD in responding to large natural, chemical, and biological event. For example, the size and scope of the biological disease outbreak and chemical attack via blister agent scenarios in the NPS would quickly overwhelm local and state authorities requiring immediate DoD assistance. Even the major hurricane scenario would require the military’s immediate involvement considering it is similar in magnitude to Hurricane Katrina. However, despite the high probability that the DoD would immediately respond to two-thirds of the proposed scenarios, the only other mention in the NPS of the use of military is in the Foot and Mouth Disease scenario. It simply mentions that, “The States would be expected to emphasize the need for containment and would also require Federal funding to cover costs, Federal personnel to support State efforts, and the use and availability of the National Guard.”⁶⁰ The NPS is careful not to incorporate the use of DoD Title 10 involvement throughout the document despite 10 of the 15 scenarios making it evident that DoD Title 10 response will most likely occur in order to contain the disaster and assist in treating and saving the lives of citizens. Although the requirement for DoD involvement is not explicitly expressed in the NPS, the scenarios clearly indicate DoD Title 10 will immediately need to respond.

C. INCREASED RISK OF A CATASTROPHIC TERRORIST ATTACK

The increased potential for a catastrophic attack perpetrated by terrorists as spelled out in the NPS was made evident in the summer of 2007. In the July 2007 NIE entitled, *The Terrorist Threat to the US Homeland* it made clear that the terrorist threat to the United States will be persistent and evolving over the next three years. The main threat to the United States continues to be Al-Qa’ida. The report stated that Al-Qa’ida,

⁵⁹ I“National Planning Scenarios,” *Department of Homeland Security*, .1-4.

⁶⁰ “National Planning Scenarios,” *Department of Homeland Security*, 14-4.

“continues to plan high-impact plots, while pushing others in extremist Sunni communities to mimic its efforts and to supplement its capabilities.”⁶¹ They will focus their efforts on striking the heart of the United States with the intent to cause mass casualties leading in economic disruption and the spreading of fear. Most disturbingly, the NIE stated:

We assess that al-Qa’ida will continue to try to acquire and employ chemical, biological, radiological, or nuclear material in attacks and would not hesitate to use them if it develops what it deems is sufficient capability.⁶²

The NIE highlights the possibility that many of the scenarios in the NPS may be more realistic than some want to believe. As for DoD and State civil authorities it should highlight that a large Title 10 response in the near future is inevitable and relationships must be built.

D. INCREASED RISK OF A CATASTROPHIC NATURAL DISASTER

In addition to the increased risk of a terrorist group triggering a catastrophic disaster in the US, the probability of a natural catastrophe causing significant damage beyond what States and local authorities may be able to handle has increased. The 2006 Annual Review of North American Natural Catastrophes indicated that 40 significant natural catastrophes occurred in the United States between 1997 and 2006.⁶³ That number has increased from 35 the decade before and from only 13 catastrophic disasters in the 1980s.⁶⁴ The Review defined a significant natural catastrophe as one that caused at least 50 deaths and had an estimated economic loss of \$1 billion per 2006 dollars. The catastrophes included earthquakes, volcanic eruptions, floods, tropical cyclones, thunderstorm events (tornadoes/hailstorms), winter storms, and other events (e.g., wild-

⁶¹ “National Intelligence Estimate: The Terrorist Threat to the US Homeland,” *National Intelligence Council*, July 2007 <https://www.llis.dhs.gov/member/secure/getfile.cfm?id=13712> accessed 4 October 2007, 6.

⁶² Ibid., 6.

⁶³ “Annual Review of North American Natural Catastrophes,” *Munich Reinsurance America Group*, July 2007 <http://www.climateandinsurance.org/news/MunichCATReview.pdf> accessed 24 Aug 2007.

⁶⁴ Ibid., 11.

land fires) that occurred in the United States, Puerto Rico, and the United States Virgin Islands.⁶⁵ That isn't to say that all 40 significant catastrophes required DoD assistance. However, if the growing population centers and commercially developed areas near coastlines or other disaster prone areas are considered, then the likelihood of another DoD response to a catastrophic natural disaster is inevitable and must be accounted for.

On the 30th year anniversary of Hurricane Camille, a report remembering the lessons learned and lessons lost predicted what could eerily be said to be Hurricane Andrew three years later and Hurricane Katrina 16 years later. It states:

For many, Camille is a distant memory, a historical footnote from a time long gone. But Camille is also a harbinger of disasters to come. Another storm of Camille's intensity *will* strike the United States, the only question is when. When this future storm strikes, it will make landfall over conditions drastically different from those in 1969. The hurricane-prone regions of the United States have developed dramatically as people have moved to the coast and the nation's wealth has grown. Estimates of potential losses from a single hurricane approach \$100 billion.⁶⁶

Sadly, Hurricane Andrew left 20 people dead⁶⁷ and cost 48.4 billion in 2005 dollars.⁶⁸ Hurricane Katrina caused 1,557 deaths and cost an estimated 150 billion dollars.⁶⁹ Both Andrew and Katrina required an immediate DoD response, yet during both disasters the assistance did not arrive during the first few critical days. Although DoD Title 10 disaster response proved invaluable, the lack of a relationship between DoD and State civil authorities contributed to a slow initial response to both catastrophes.

⁶⁵ Annual Review of North American Natural Catastrophes, 11.

⁶⁶ "Thirty Years After Hurricane Camille: Lessons Learned, Lessons Lost," *Hurricane Camille Project Report*, July 12, 1999 http://sciencepolicy.colorado.edu/about_us/meet_us/roger_pielke/camille/report.html accessed 24 Aug 2007.

⁶⁷ Janet McDonnell, *Hurricane Andrew Historical Report*, Fort Belvoir, Virginia: Office of History US Army Corps of Engineers, January 1993, 2.

⁶⁸ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 37.

⁶⁹ Ibid., 37.

III. FROM IMMEDIATE RESPONSE TO AMBIGUITY

A. INTRODUCTION

Fortunately, in years past the Federal military's relationship with State civil authorities did not impede their initial domestic disaster response. Although not perfect, historical military disaster response was swift, immediate, and welcomed by State and local civil authorities. This chapter is divided into four historical phases that trace the Federal military's role in domestic disaster response and their changing relationship with civil authorities. It analyzes the military's involvement to a variety of past disasters and examines how legislative and doctrinal changes changed their relationship. The first phase examines the Federal military's role from 1871 to 1926. It details the military role as the nation's primary response agency and how it worked hand in hand with civil authorities during disasters. The second phase examines the military's role from 1927 to 1949. It describes how the military's slowly receded as the Nation's primary disaster response agency. The third phase spans from 1950 to 1970 and focuses on the institutional divide that weakened the relationship between DoD and State civil authorities. Finally, phase four analyzes how DoD divested itself from domestic disaster response eliminating the need to maintain a relationship with State civil authorities from 1971 until 1992. These phases shed insight on the changing domestic response role of the Federal military. They examine how and why the relationship between the military and State civil authorities slowly weakened. They also explain why the relationship eventually transformed from a collaborative one during the 1800s and early 1900s to one based on ambiguity by 1992 contributing to DoD's eventual slow response to Hurricane Andrew.

B. THE EARLY YEARS (1871-1926)

1. The Chicago Fire

Since the 1870s, the decade when Congress began to grant disaster relief, appropriations on a more commonplace basis; the military/Army was thrust into the role of domestic disaster response. During those years, the Army by virtue of its geographic dispersion, presence, and stockpiles of rations was better equipped than any other federal agency to render rapid disaster assistance.⁷⁰ The Army was imbedded into the local communities making them more accessible in the event of a state or local catastrophe. Between 1868 and 1898 the Army participated in 17 separate disaster relief efforts, to include the catastrophic Chicago fire of 1871.⁷¹

During the Chicago Fire of 1871, the military acted promptly in response to the catastrophic conflagration that engulfed the entire city. On October 9, 1871 Lieutenant General P.H. Sheridan, commander of the Army's Division of the Missouri informed William W. Belknap, the Secretary of War, that the Chicago fire had destroyed most of the city and left some 100,000 people homeless. The Secretary of War immediately ordered Army personnel from depots at St. Louis, Jeffersonville, and elsewhere to "...liberally and promptly" send clothing, tools, and provisions to Chicago.⁷² The Army worked directly with local authorities in order to fill both humanitarian and security needs. They sent over 1000 troops to Chicago, at the request of the Mayor, to maintain law and order for three weeks. This occurred only after the Chicago's Board of Trade requested General Sheridan to have troops help patrol the city.⁷³ Chicago's Mayor's official proclamation read:

⁷⁰ Gaines M. Foster, "The Demands of Humanity: Army Medical Disaster Relief," *Center Of Military History United States Army*, Washington, DC, 1983
<http://history.amedd.army.mil/booksdocs/misc/disaster/frameindex.html> accessed 20 July 2007,15.

⁷¹ Ibid., 16.

⁷² "The Great Chicago Fire and the Web of Memory," *Chicago Historical Society and the Trustees of Northwestern University*. 1996 <http://www.chicagohs.org/fire/rescue/military.html> accessed 14 August 2007.

⁷³ Peter Charles Hoffer, *Seven Fires: The Urban Infernos That Reshaped America*. New York, NY: Public Affairs, 2006, 129.

The preservation of the good order and peace of the city is hereby entrusted to Lieut. General P.H. Sheridan, U.S. Army. The Police will act in conjunction with the Lieut. General in the preservation of the peace and quiet of the city, and the Superintendent of the Police will consult with him to that end. The intent being to preserve the peace of the city without interfering with the functions of the city government.

Given under my seal this October 11, A.D. 1871.

R.B. MASON, Mayor⁷⁴

The military's response and relief efforts during the Chicago fire were immediate and effective. So much so that Mayor Mason wrote General Sheridan on October 22nd thanking the military for their assistance. Mayor Mason wrote, "Permit me to tender you the thanks of the city of Chicago and its whole people for the very efficient aid which you have rendered, in protecting the lives and property of the citizens, and in the preservation of the general peace and good order of the community."⁷⁵ For civil authorities, the response to the Chicago fire demonstrated a willingness to enthusiastically welcome military assistance. For the military, it demonstrated their willingness to render assistance immediately and without hesitation to the residents of Chicago. Much of this collaboration was based on the Nation's reliance on the military's ability to fill a lead responder role and the relationship they had with State and local civil authorities.

2. The Galveston Hurricane

Some 30 years later, another catastrophic disaster befell the United States and once again the military responded immediately. They worked directly with State and local authorities as they performed response and relief missions to aid the city of Galveston, Texas. On September 8, 1900 Galveston was struck by one of the worse natural catastrophes in United States history. The Galveston Hurricane claimed an estimated 6,000-8,000 lives and destroyed over 3,600 buildings. The destruction and death toll was unimaginable considering that Galveston's population was 37,000 in

⁷⁴ "The Great Chicago Fire and the Web of Memory," 1.

⁷⁵ Ibid., 1.

1900.⁷⁶ Galveston lost more than 21% of its population to the hurricane. In comparison, Hurricane Katrina would have had to cause over 95,000 deaths in New Orleans alone to have equaled the death toll experienced in Galveston.⁷⁷ Paul Lester quotes a leading journal of the time as describing the scene in Galveston:

The cry for help which comes from the stricken city of Galveston and the surrounding country is a moving appeal which should receive the readiest and most generous response. The extent of the disaster which has overtaken the city and the coast country of Texas has not been overdrawn, it seems, in the reports from the scene, and it would be impossible to exaggerate the horror of the catastrophe and the distress and the suffering that followed in its wake.⁷⁸

In response to the Galveston Hurricane and at the request of Governor J.D. Sayers of Texas, President McKinley immediately ordered troops and supplies sent to Texas.⁷⁹ Without pause, the War Department immediately dispatched 55,000 rations, 1,500 tents, and other supplies to Galveston. The military's actions were typified in the following report. "Fortunately, the Government has stepped in and, through the War Department, is lending prompt and effective aid. Tents and rations are being rushed to Galveston with all possible speed..."⁸⁰ In addition to the Army's response, the Navy Department sent ships to assist in disaster efforts ordering them to, "...co-operate with the municipal and state authorities in whatever service should be required."⁸¹ The War and Navy Departments ensured that military personnel worked with State and local authorities to provide the most effective support to those in need. One author described the support the military provided as strong due to, "...the efforts of numerous generals and their troops

⁷⁶ "The 1900 Storm," *Galveston County Daily News*, <http://www.1900storm.com/facts.lasso> accessed 5 August 2007.

⁷⁷ "Population on the rise in New Orleans," *Los Angeles Times*, August 9, 2007 <http://proquest.umi.com/pqdweb?index=1&did=1316967061&SrchMode=1&sid=1&Fmt=3&VInst=PROD&VType=PQD&RQT=309&VName=PQD&TS=1194308738&clientId=11969> accessed 5 November 2007.

⁷⁸ Paul Lester, *The Great Galveston Disaster*, Gretna, LA: Pelican Publishing Company, Inc., 2000, p. 59.

⁷⁹ Nathan C. Green, *The Story of 1900: Galveston Hurricane*, Gretna, LA: Pelican Publishing Company, 2000, 127.

⁸⁰ Lester, 60.

⁸¹ Ibid., 122-3.

stretching from Washington to Galveston.”⁸² Governor Sayers sent a telegram thanking President McKinley for allowing the War Department to assist in relief efforts. He stated, “Your action will be greatly appreciated and gratefully remembered by the people of Texas.”⁸³

3. The San Francisco Earthquake

Six years later, the military once again played an instrumental role in response to a catastrophic disaster. This time it was in response to the 1906 San Francisco Earthquake. The destruction was so great that every service of the Armed Forces worked along side civil authorities during the City’s response and recovery operations.⁸⁴ The military’s response began on April 18, 1906 when Brigadier General Fredrick Funston acting Commander of the Army’s Pacific Division made a command decision, moments after he stepped out of his San Francisco home and witnessed the damage caused by the quake. Funston took it upon himself to “save the city” and sent regular Army troops into San Francisco from Fort Mason without authorization from civil authorities.⁸⁵ Shortly after his decision, Funston received approval for his actions from San Francisco’s Mayor, Eugene Schmitz. From that point on, Funston and the Mayor worked in a collaborative manor to best utilize military resources.

The military’s initial response thrust focus on maintaining law and order by preventing looting and assisting in fighting fires throughout the city. Federal troops were sent into the streets with orders from San Francisco’s Mayor, “...to KILL any and all persons found engaged in Looting or in the Commission of Any Other Crime.”⁸⁶ In addition to law and order, Army artillery corpsman assisted the city’s firefighters by

⁸² “Why the 1900 Galveston Hurricane was not a Disaster,” *Suburban Emergency Management Project*, September 25, 2005 http://www.semp.us/publications/biot_reader.php?BiotID=269 accessed 20 July 2007.

⁸³ Lester, 40.

⁸⁴ Fradkin, 63.

⁸⁵ Ibid., 63.

⁸⁶ Gordon Thomas and Max Morgan Witts, *The San Francisco Earthquake*. New York, NY: Stein and Day, 1971, 132.

setting explosives aimed at destroying buildings for the purpose of creating firebreaks.⁸⁷ The Navy sent ships filled with Sailors and Marines. From ships, the military pumped seawater into the city as they worked side by side with firefighters. Together they struggled valiantly in an effort to save San Francisco's waterfront. All toll, an estimated 2000 federal troops flooded into San Francisco to assist in the disaster response effort.⁸⁸

In addition to the disaster response effort, the military heavily contributed to San Francisco's relief effort. The Presidio of San Francisco was turned into a refugee camp. Garrison cookhouses were opened. Thousands of tents and blankets were distributed and 700,000 rations sent for from the Army's Portland and Seattle commissaries to feed victims of the earthquake.⁸⁹ On April 27th the Army was placed in charge of logistics. The War Department ordered them to control and distribute relief supplies to some 350,000 San Franciscans. For three months, the Army remained in San Francisco to fill a badly needed disaster relief role. They remained in the City until the end of June 1906 working diligently with civil authorities.⁹⁰

Unfortunately, the military's involvement in response to the San Francisco Earthquake has been criticized by some as less than heroic. Some soldiers were accused of participating in looting, not preventing it. They were accused with overzealously carrying out their "shoot looters on sight" orders. Most of all they were criticized by some for entering San Francisco without an invitation by civil authorities. Despite criticisms, the military's response and relief role during San Francisco's catastrophic earthquake could not be underestimated. Nor could the way military leadership worked directly with the civil authorities to effectively support the City's needs. Although controversial, Funston's initiative to respond with Federal troops prior to informing San Francisco's Mayor signaled the solid relationship military officials had with the City's civil authorities. The Mayor could have easily felt threatened by Funston's unilateral actions, yet he did not. Instead he gave the military unprecedented response authority

⁸⁷ Fradkin, 74.

⁸⁸ Ibid., 136.

⁸⁹ Thomas, 160.

⁹⁰ Ibid., 273-4.

placing trust and confidence in their intentions and capabilities. This demonstrated how the pre-existing relationship between the military and civil authorities positively impacted the response to the San Francisco Earthquake.

4. Mississippi River Flooding

The criticisms the military received from their 1906 response to the San Francisco Earthquake did little to prevent their use in future catastrophes. The Federal government as well as State and local authorities continued to rely on the Department of War as an invaluable disaster response and relief agency. In 1912, the Mississippi River banks flooded 5 to 60 miles inland from its banks stretching a distance of nearly 800 miles.⁹¹ This flooding was so severe that it necessitated a national response. President William Howard Taft directed the only agency capable of bringing immediate and extensive resources to the victims of the flood to respond. He instructed Secretary of War, Henry Stimson to send Army resources. Stimson appointed Major James E. Normoyle of the Quartermaster Corps to take charge of relief operations. Major Normoyle took a local approach to the disaster response. He placed Army officers in charge of specific geographic areas. This allowed them to independently commit resources and manpower based off specific geographic needs. His geographically dispersed units were left to conduct rescue and relief efforts. They focused on setting up refugee camps and delivering food, clothing, and tents. This was done in coordination with civil authorities and with little interference from other agencies.⁹²

C. CHANGING TIDES (1927-1949)

1. The Great Mississippi Valley Flooding

Up until 1927, when a catastrophic disaster occurred, the War Department immediately mobilized its resources and became the de facto driving force behind the Federal government's responses to requests for disaster assistance from the States. At the

⁹¹ Foster, 68.

⁹² Ibid., 69.

same time, if the States needed disaster assistance, they did not hesitate to ask for military assistance. When the States did ask, the military worked directly with State and local civil authorities. It was a resource needer-resource provider relationship. If the State and local authorities needed immediate aid after a catastrophic disaster, the military provided immediate response. However, neither this relationship nor the military's role as the lead domestic disaster response agency would last much longer. The bureaucratic tides of change soon engulfed the Nation's domestic disaster arena.

2. A Recovery Czar Appointed

In 1927 President Calvin Coolidge, in response to extensive flooding in the Mississippi Valley, added a layer of bureaucracy to the Federal government's method of responding to catastrophic disasters. He appointed of the Secretary of Commerce, Herbert Hoover, as the chairman of a government committee set up to assist the Red Cross in disaster relief.⁹³ This occurred after several state governors requested Federal assistance based on the severity of flooding in the Mississippi Valley.⁹⁴ The flooding encompassed over 26,000 square miles of land in seven states, destroying 41,487 buildings, leaving some 246 people dead.⁹⁵

Appointing Hoover as head of catastrophic disaster relief was a shift in disaster response protocol. In the past, as seen in the Chicago Fire, the Galveston Hurricane, and the San Francisco Earthquake; the War Department had been the main domestic catastrophic disaster response and relief agency tasked by the Federal government to work directly with State and local authorities. The relationship changed when Hoover set up a committee to facilitate disaster relief operations. His committee, along with the Red Cross, was charged with heading up disaster response and relief operations. This placed the War Department in a supporting role responding to, not the States, but to another

⁹³ "Disaster Response and Appointment of a Recovery Czar: The Executive Branch's Response to the Flood of 1927," *Congressional Research Service*, October 25, 2005 <http://fas.org/sgp/crs/misc/RL33126.pdf> accessed 15 August 2007, 5.

⁹⁴ Foster, 110.

⁹⁵ "Disaster Response and Appointment of a Recovery Czar: The Executive Branch's Response to the Flood of 1927," 3.

Federal authority. The War Department was now required to act only at the request of Hoover's committee and not based on direct requests from the affected States. As one author stated, Hoover's plan:

...provided supplies in bulk for local officials to distribute, and control as they pleased...But despite the basic similarity [to the Army's system], at least one crucial change had occurred: a civilian official and the Red Cross directed relief operations, not the War Department and its corps area commanders. Since Hoover wanted local forces-primarily the volunteers of the Red Cross and the sometime-soldiers of the National Guard-to render relief, the Army functioned as what amounted to a wholesaler of equipment...⁹⁶

Hoover's planning and modified system of response not only changed the military's response role, it also became an early introduction to what would later evolve into emergency management.

3. The Military's Newly Defined Disaster Role

President Coolidge's precedent setting appointment of Hoover as "Recovery Czar"⁹⁷ during the 1927 floods forced the military to redefine their disaster response role. During the 1927 floods, the military was told to loan the Red Cross and other organizations equipment. After the flood, the military was left with a "\$13 million bill for the loss and depreciation on its equipment."⁹⁸ Most of this equipment was loaned to the Red Cross. Due to the damage that had been done to its equipment and the lack of reimbursement from the 1927 floods, the Army began to recede from the domestic disaster relief role. At one point, a War Department study conducted in 1932 stated the following as to the use of Army resources during disasters, "The time has arrived when the War Department must cease to be regarded as an eleemosynary institution and insist upon a strict observance of the law regarding the use of public property."⁹⁹

⁹⁶ Foster, 120.

⁹⁷ "Disaster Response and Appointment of a Recovery Czar: The Executive Branch's Response to the Flood of 1927,", 1.

⁹⁸ Foster, 113.

⁹⁹ Foster, 116.

In the years following, the Army responded to several other disasters. They expended many resources yet found reimbursements negligible. On May 1938, in order to address the depletion of military resources and the impact responding to disasters was having on Army readiness, “The Army recognized the Red Cross as the nation's primary disaster relief agency, though its corps area commanders retained the prerogative of committing Army personnel and resources. Once involved, however, the Army would abdicate a great deal of authority to the Red Cross...” The Army even went so far as to revise their Army Regulation (AR) 500-60 and incorporate the support role of the Army and the role and responsibility of the Red Cross in the event of a domestic disaster.¹⁰⁰ The Army’s recognition of the Red Cross validated what the Red Cross’s 1900 and later 1905 Congressional Charter had stated all along:

That the purposes of this corporation are and shall be...to continue and carry on a system of national and international relief in time of peace and apply the same in mitigating the sufferings caused by pestilence, famine, fires, floods, and other great national calamities, and to devise and carry on measures for preventing the same.¹⁰¹

That same year of 1938, Gaines Foster sites Major General George Van Horn Moseley, commander of the 4th Corps as stating, “...if financed...the Army should be called only in an "emergency so critical and so extensive that it taxes the regular civil institutions beyond their power." Even on such occasions the Army should remain only for as long as absolutely necessary. As soon as possible, civilian authorities must take control.”¹⁰² Moseley’s statement was to become a foreshadowing of today’s military domestic disaster role as stated in the 2004 NRP. The NRP states that military support “...is provided when local, State, and Federal resources are overwhelmed, provided that it does not interfere with the Department’s military readiness or operations.¹⁰³ The appointment of a recovery czar, Moseley’s comments that the military be used as a

¹⁰⁰ Foster, 121.

¹⁰¹ Congressional Act to Incorporate the American Red Cross, February 5, 1905, SEC. 3.

¹⁰² Foster, 122.

¹⁰³ Department of Homeland Security, *National Response Plan*, 42.

resource of last resort, and the dispute over reimbursement of military expenses began to corrode the solid response relationship the military once had held with State and local civil authorities.

However, the effects on the domestic disaster relationship between the military and State civil authorities would not be apparent for years to come. Throughout the 1930s and 40s, the military continued to respond to domestic disasters due to the specialized resources and capabilities they possessed. In 1938, they provided aid to New England following a hurricane. Later in 1945 the Army Air Corps dropped bales of hay and feed to starving cattle during a prolonged blizzard in Colorado.¹⁰⁴ In 1947, the Army sent a 47 vehicle convoy to Texas City, Texas after chemicals exploded as they were loaded on a ship. The Army provided supplies, assisted in evacuations, set up field kitchens, and controlled traffic. In addition, the newly created Air Force sent 39 air transport planes to bring in supplies and medical personnel.¹⁰⁵ Two years later in 1949, over 6000 military and civilian personnel teamed up to aid Midwesterners blanketed by a series of blizzards. In response, the Air Force and Army teamed up to execute “Operation Snowbound” The Air Force flew 1260 sorties air dropping badly needed feed and supplies.¹⁰⁶ As the 1940s ended, the military continued to respond to domestic disasters and the Federal government looked towards institutionalizing federal disaster assistance.

D. INSTITUTIONAL DIVIDE (1950-1970)

1. Public Law 875

On September 30, 1950 Congress passed Public Law 875 better known as The Disaster Relief Act of 1950. This Act unintentionally continued to weaken the relationship between DoD Title 10 and State civil authorities by creating an institutional divide. Public Law 875’s intent was:

¹⁰⁴ Freda M. Boyle, "The Army in Disaster Relief," *Army Information Digest* Vol. 9 No. 4 April 1954, 52.

¹⁰⁵ Ibid., 51.

¹⁰⁶ Boyle, 50-51.

...to provide an orderly and continuing means of assistance by the Federal Government to the States and local governments in carrying out their responsibilities to alleviate suffering and damage resulting from major disasters, to repair essential public facilities in major disasters, and to foster the development of such State and local organizations and plans to cope with major disasters as may be necessary.¹⁰⁷

2. Federal Institutionalization of Disaster Response

Public Law 875 for the first time institutionalized the Federal government's role in domestic disaster relief. It made clear that all Federal agencies, to include the DoD, were authorized to provide disaster assistance to State and local authorities. It also identified the need for State and locals to develop organizations and plans in order to cope with major disasters. Finally, it gave the President the Power to designate an agency of his choosing to carry out the provisions of Public Law 875.¹⁰⁸ By authorizing all Federal agencies to provide disaster assistance, it placed responsibility on other non-military agencies to consider their part if called upon.

Since Public Law 875 asked States and locals to develop plans and organizations to cope with disasters, it, for the first time, mandated that States and local authorities better prepare and plan for disasters. It also signaled to the States that Federal assistance would no longer be automatic or just a phone call away. All Federal agencies were now responsible for following federal protocols and procedures before they could respond. To complicate the matter even further, each Federal agency, to include DoD, would also have to create internal procedures as to how and when to render disaster assistance if requested. The United States Federal disaster response had become institutionalized, more complex, more bureaucratic, and unfortunately unknowingly less responsive when States needed it most.

¹⁰⁷ Public Law 875, The Disaster Relief Act of 1950, September 30, 1950.

¹⁰⁸ Public Law 875, SEC. 5.

3. Military Institutionalization of Disaster Response

For DoD, Public Law 875 ended their role as unofficial disaster responder of choice. It codified what the military had been asked to do as a Federal agency since the Chicago Fires of 1871; respond as a federal department to domestic disasters when called. It also struck the first legal blow in the relationship between DoD and State civil authorities. It now forced State governors to formally request assistance from the President, certify the need for assistance, and show that a “reasonable amount” of State and local resources had already been committed to the disaster.¹⁰⁹ State governors could no longer simply ask the President for DoD disaster assistance without scrutiny over what actions they had first taken. Worse yet, the Law seemed to prompt questions from Federal authorities as to why the state needed Federal assistance. Was the reason States needed disaster assistance because they did not properly plan and prepare? Is that why they needed Federal and/or DoD assistance?

Public Law 875, also led to the creation of the Federal Civil Defense Administration (FCDA) in 1953. The DoD, as well as all other Federal agencies were now required to respond to domestic disasters at the direction of the FCDA, whom the President delegated the responsibility to carry out Public Law 875.¹¹⁰ By doing so, DoD resources and capabilities were treated as part of Federal disaster assistance system. Their unique response skills and capabilities were now only to be used if requested through the FCDA. Public Law 875 gave DoD legislative justification to no longer considered itself an immediate responder during any disaster, to include catastrophic. During this time, the notion of DoD no longer considering itself an immediate responder began to crystallize in the minds of DoD, Federal, and State civil authorities.

In 1956 the DoD formalized their domestic disaster response procedures in a new directive.¹¹¹ This led to a more formalized military disaster response system. The DoD named the Army as the lead service responsible for all DoD disaster assistance to civil

¹⁰⁹ Public Law 875, SEC. 2.

¹¹⁰ Executive Order No. 10427, January 16, 1953.

¹¹¹ Foster, 135.

authorities. The Army's responsibilities included coordinating resources provided by the Air Force and Navy. DoD even institutionalized their request for assistance procedures. Appeals for military disaster assistance would need to be requested through the state governor by way of a FCDA Regional Administrators and then passed along to an Army area commander. The appropriate Army commander would then coordinate disaster assistance if available. If resources were not available then the Army area commander would contact the Continental Army Commander to request resources from other regional commands.¹¹² In cases where a local installation commander received a request from civil authorities that confirmed life or property was in danger, the commander was given authority to respond. This "immediate response" authority was intended to save lives, prevent human suffering and the destruction of property.¹¹³

Through the 1950s, the DoD continued to respond to domestic disasters, though not catastrophic. In 1957 Carter L. Burgess, the Assistant Secretary of Defense (Manpower, Personnel and Reserve) and member of the Commission on Government Security wrote, "The Armed Forces are as vital to the nation in combating natural disasters as they are in defending against enemy attack."¹¹⁴ He reaffirmed that the military would stand ready to respond to a disaster if called. He mentioned how the military provided assistance to victims of Hurricanes Carol, Edna, and Hazel in 1954. He also mentioned the military's response in 1955 to the floods of the Pacific Coast. During the floods the DoD assisted in evacuations, reinforced levees, and furnished food, housing, and medical services.¹¹⁵

4. Response Protocols Tested

However, as the 1960s came and went, the new response protocols and disaster response procedures set out in Public Law 875 and military directives were tested, often

¹¹² Carter L. Burgess, "The Armed Forces in Disaster Relief," *Annals of the American Academy of Political and Social Science*, January 1957 <http://links.jstor.org/sici?&sici=0002-7162%28195701%29309%3C71%3ATAFIDR%3E2.0.CO%3B2-9> accessed 20 August 2007, 73.

¹¹³ Ibid., 73.

¹¹⁴ Ibid., 79.

¹¹⁵ Burgess, 72.

failed, were ignored, or modified. The tendency was that during disasters, those requiring the assistance (States and local communities) did not use established protocols mandating they work through multiple agencies in order to receive desperately needed resource from DoD. This was especially true during the first few chaotic days after a disaster occurred.

In a 1968 study for the Office of Civil Defense, Office of the Secretary of the Army Professor William A. Anderson discussed, "...the involvement of the military in disaster, and the nature of military-civilian relations when such involvement occurs."¹¹⁶ He noted, that of 48 field studies conducted by the Disaster Research Center (DRC) from 1963-1968, the military was involved in almost every large scale disaster.¹¹⁷ Consistent with present day disaster response philosophy, Professor Anderson found that the value system of American society widely held, "...that local problems, including those created by disaster, ought to be solved through civilian governmental structure and organization, and that non-civilian means [military] should be turned to only if it appears that civilian resources will be inadequate."¹¹⁸

Anderson also found that coordination between military and civilian authorities and channeling of civil requests for military assistance were problems as well. Anderson noted that coordination issues stemmed from the lack of understanding military and civilian organizations had of one another in part due to each member of the respective organization bringing their "special perspective" to the event, often times hampering coordination.¹¹⁹ Adding to coordination problems was the overly layered request for assistance procedures that slowed the military's response. Anderson's diagram below partially shows the layers local and State authorities needed to go through to receive DoD assistance:¹²⁰

¹¹⁶ William A. Anderson, *Military-Civilian Relations in Disaster Operations*. Washington DC: Office of Civil Defense, 1968, 1.

¹¹⁷ Ibid., 1.

¹¹⁸ Ibid., 16.

¹¹⁹ Anderson, 31.

¹²⁰ Ibid., 34.

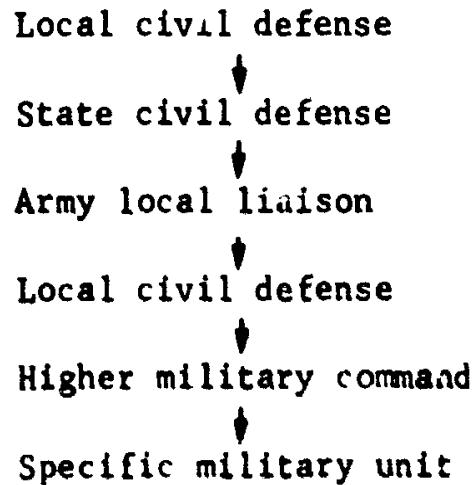


Figure 1. Military Assistance Request Flow

What Anderson did not include in his diagram was that per the Public Law 875 State civil authorities also needed to go through the FCDA, which later split into the Office of Civil Defense and the Office of Emergency Planning in 1961, to request military assistance who would then task the DoD.¹²¹ The request process was frustrating and time consuming. It was too far detached from those needing the assistance and those providing it. Anderson noted that civilian officials did not, "...understand the channels to use in seeking military aid, nor the need to follow formal procedures."¹²² He stated that local officials did not want to move through the State and Federal hierarchy in order to request military assistance. Instead an informal military request system was adopted, in 1960 when Hurricane Carla flooded Denton, Texas, to improve military response.¹²³ As illustrated below, the request for assistance process was informally simplified to go straight from local authorities to the Army Liaison.¹²⁴

¹²¹ Department of Homeland Security, *Civil Defense and Civil Preparedness for the 20th Century*, Washington DC: Department of Homeland Security, August 2006, 8-9.

¹²² Anderson, 33.

¹²³ Ibid., 36.

¹²⁴ Ibid., 35.

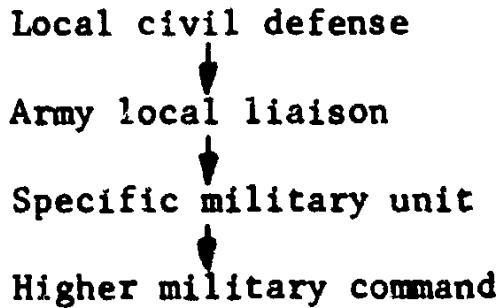


Figure 2. Simplified Military Assistance Request Flow

5. Disaster Relief Act of 1970

a. *Increased Federal power*

On December 31, 1970 Congress passed the Disaster Relief Act of 1970. This was partly due to the major problems highlighted in the domestic response to Hurricane Camille. Camille was a category five hurricane that devastated the Gulf Coast in 1969. The Act expanded on the type of grants the Federal government would provide to individuals and State and local authorities. It included provisions that authorized grants to rebuild State and local facilities and food coupons and unemployment assistance to victims.¹²⁵ It also stated that the President would appoint an FCO who would operate under the Office of Emergency Preparedness responsible for the coordination and administration of Federal disaster relief efforts.¹²⁶ However, the greatest assertion of Federal involvement in the Disaster Relief Act of 1970 came under Sec. 221 PREDISASTER ASSISTANCE which stated:

If the President determines that a major disaster is imminent, he is authorized to use Federal departments, agencies, and instrumentalities, and all other resources of the Federal Government to avert or lessen the effects of such disaster before its actual occurrence.¹²⁷

¹²⁵ Public Law 91-606, Disaster Relief Act of 1970, December 31, 1970.

¹²⁶ Ibid., SEC. 201.

¹²⁷ Public Law 91-606, SEC. 221.

For the DoD this meant that they could be called in to assist prior to a disaster based on the President's orders. For the States it meant that the President could send in Federal Assistance, to include the DoD, into a State without prior invitation or consent from the governor. There are no known cases of this occurring in the 4 years up to the passing of the Disaster Relief Act of 1974 which removed this authority.¹²⁸ However, it did set a precedent that would be revisited after Hurricane Katrina impacting the relationship between DoD and State civil authorities.

b. Increased State Disaster Responsibilities

In addition to granting more authority to the President, the Disaster Relief Act of 1970 increased the States' responsibility to prepare for and respond to disasters. In Sec 206 of the Act the President was authorized to grant up to \$250,000 to States for the purpose of "...developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance to individuals, businesses, and local governments following such disasters."¹²⁹ In order to qualify for these grants, States had to designate or create a qualified agency that could plan and administer their program and submit their State disaster relief plan to the President. Each State would need to appoint an SCO that would work with an FCO in case of a disaster.¹³⁰ These provisions were intended to increase State and local preparedness and response capabilities and make the States more self reliant. Unfortunately, the provisions also negated the need for State civil authorities to maintain any disaster support relationship with DoD.

c. Decreased DoD Focus on Disaster Response

For the DoD, improved State and local preparedness translated to less and less of a need to maintain their relationship with State civil authorities since their participation in disaster response was waning. It also meant the DoD could focus more

¹²⁸ Public Law 93-288, The Disaster Relief Act of 1974, May 22, 1974.

¹²⁹ Public Law 91-606, SEC. 206.

¹³⁰ Ibid., SEC. 206

on its primary mission, defending the nation from outside threats. During most of the 1970s DoD was responsible for the Defense Civil Preparedness Agency (DCPA) which the Federal government created to implement a dual-use philosophy for the use of disaster funds. For the first time civil defense funds could be shared with State and local governments for the use of civil defense as well as natural disaster preparedness.¹³¹ However during the Ford Administration, Secretary of Defense Donald Rumsfeld made clear that, "...the Federal government should address only attack preparedness, while peacetime disasters were a State and local responsibility."¹³² This did not bode well for many State officials.

E. DIVESTMENT BETWEEN DOD AND THE STATES (1971-1992)

1. Tensions between DoD and State Officials and the Creation of FEMA

As the 1970s wore on, conflicts between State officials and DoD over DCPA policy priorities intensified.¹³³ Governors felt that there needed to be more emphasis on peacetime disasters and not national security. In 1977, the National Governors Association applied pressure to the Federal government. They wanted more focus on "comprehensive emergency management" which included peacetime disasters.¹³⁴ Again DoD felt that this was a State responsibility, not a DoD responsibility. This continued to corrode the virtually non existent relationship between DoD and State civil authorities. On June 19, 1978 Congress acted and created the Federal Emergency Management Agency (FEMA) through Reorganization Plan No. 3 of 1978. According to a Presidential executive order issued in July of 1979, the Director of FEMA was now responsible for, among other things:

¹³¹ Department of Homeland Security, *Civil Defense and Civil Preparedness for the 20th Century*, 12.

¹³² Ibid., 14.

¹³³ William L. Waugh, Jr., *Living With Hazards Dealing With Disasters: An Introduction to Emergency Management*. Armonk, NY: M.E. Sharpe, 2000, 28.

¹³⁴ Russell R. Dynes, "FEMA: Disaster Relief or Disaster, Period," *University of Delaware Disaster Research Center* <http://dspace.udel.edu:8080/dspace/bitstream/19716/569/3/PP181.pdf> accessed 20 August 2007.

- Establish[ing] Federal policies for, and coordinate, all civil defense and civil emergency planning, management, mitigation, and assistance functions of Executive agencies
- Working with State and local governments and private sector to stimulate vigorous participation in civil emergency preparedness, mitigation, response, and recovery programs.¹³⁵

With FEMA taking on the federal civil defense and emergency management role for the nation, the DoD was now able to divest itself from its direct civil defense and peacetime domestic disaster response role. This led to the severing of all direct DoD ties with State civil defense and emergency management officials. The DoD turned its full attention to protecting the Nation from external enemies. It no longer needed to fetter with domestic response planning or coordination with State civil authorities. The Creation of FEMA also negated the requirement for State civil authorities to work with DoD for their disaster response planning and budgeting needs. States were now required to work all issues through FEMA even in the event of a catastrophic disaster. This was despite history proving that only DoD had the capabilities and resources to respond to an overwhelming catastrophic disaster.

2. Executive Order 1256 and The 1988 Stafford Act

In November of 1988 Executive Order 12656, Assignment of Emergency Preparedness Responsibilities, refocused some of DoDs attention back into the domestic response arena. Executive Order 12656 was intended to ensure the United States had sufficient capabilities, "...at all levels of government to meet essential defense and civilian needs during any national security emergency."¹³⁶ In its definition of national security emergency, it included natural disaster, military attack, technological emergency, or any other emergency that threatened national security. The head of each federal department or agency needed to develop appropriate plans for response and coordinate those plans with State and local government agencies. In addition, they were to assist

¹³⁵ Executive Order 12148: Federal Emergency Management, The National Archives, July 20, 1979 <http://www.archives.gov/federal-register/codification/executive-order/12148.html> accessed 20 August 2007.

¹³⁶ "Executive Order 12656: Assignment of Emergency Preparedness Responsibilities," November 18, 1988 <http://www.fas.org/irp/offdocs/EO12656.htm> accessed 20 August 2007.

State and locals in developing their own plan “...for mitigating the effects of national security emergencies and for providing services that are essential to a national response...”¹³⁷

Also in November 1988, Congress passed The Robert T. Stafford Disaster Relief and Emergency Assistance Act. For the first time, the Congress added a section entitled “Utilization of DoD Resources.” This enabled Governors to request from the President DoD resources for use in the performance of emergency work. Emergency work was defined as the clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.¹³⁸ Executive Order 12656 and the additions to the 1988 Stafford Act where to become foretelling signs signaling the revival of DoDs crucial domestic catastrophic disaster response role and serve as a reminder that a solid relationship between DoD Title 10 and State civil authorities was critical in facilitating an immediate DoD disaster response.

3. Warning Signs Not Fully Recognized

In 1989 two major disasters hit the United States, Hurricane Hugo struck the Virgin Islands and the Carolina’s and the Loma Prieta Earthquake shook California. The DoDs main response occurred in the Virgin Islands. After both disasters, the Federal response (mainly FEMAs) effort received intense criticism.¹³⁹ Due to the dissatisfaction with the response to Hurricane Hugo, FEMA published the Federal Response Plan (FRP) in April 1992. The FRPs purpose was to, “...facilitate the delivery of all types of Federal response assistance to States to help them deal with the consequences of significant disasters.”¹⁴⁰ The FRP was broken down into policies, situations, concept of operations, response actions, and responsibilities. It, for the first time, listed 12 ESFs headed by a pre-designated primary Federal agency. ESFs were intended to be functional areas of

¹³⁷ Ibid., SEC. 201.

¹³⁸ Public Law 100-707, SEC. 403.

¹³⁹ United States General Accounting Office, *Disaster Management: Improving the Nation’s Response to Catastrophic Disasters*. Washington DC: United States General Accounting Office, July 1993, 1.

¹⁴⁰ Federal Emergency Management Agency, *The Federal Response Plan*, Washington DC: Federal Emergency Management Agency, April 1992, VII.

response activities, such as transportation or communication that a primary Federal agency would use to facilitate the delivery of assistance in an effort to supplement State and local response.¹⁴¹

As for the DoD, the FRP contained the following statement defining the role of the DCO. It stated:

The Defense Coordination Officer (DCO) function is supported by DoD. The DCO is provided by the DoD to serve in the field as the point of contact to the FCO and the ESFs regarding requests for military assistance. The DCO and staff coordinate support and provide liaison to the ESFs.¹⁴²

The FRP also listed DoD as the primary agency for ESF #3, Public Works and Engineering and ESF #9 Urban Search and Rescue. DoD was listed as a supporting agency for all other ESFs. Overall, the FRP did not adequately capture DoD's traditional involvement in catastrophic disaster responses nor did it contain guidance as to how to adequately employ their resources for the best benefit of State and local authorities. It continued to emphasize that all disaster response coordination was done through FEMA.

F. CONCLUSION

Historically, the Federal military's response to domestic disasters was expected, accepted, and welcomed by civil authorities. It was also free of bureaucratic complexity. These factors enabled the military to respond immediately to catastrophic disasters. The military's ability and willingness to respond to these events was galvanized by the relationships they maintained with civil authorities. Those relationships were based on the military's geographic dispersion and presence throughout the Nation. Military commanders such as Sheridan and Funston were seen as part of the community and maintained close relationships with civil authorities. They were not restricted by bureaucratic response procedures that added complexity or slowed their response. The military's solid relationship with civil authority and their simplistic response decision

¹⁴¹ Federal Emergency Management Agency, *The Federal Response Plan*, B-2.

¹⁴² *Ibid.*, 25.

matrix enabled them to render immediate assistance to disaster victims knowing it would be welcomed and/or expected by civil authorities.

As time moved on, issues over reimbursement of military disaster response expenditures and the military's rightful role in disaster response slowly encouraged the implementation of bureaucratic disaster assistance. After 1950, the military could respond to domestic disaster by exception only. Massive response efforts such as those needed for catastrophic events became bogged down by legislative restrictions and complex doctrinal procedures. The new way of dealing with disasters slowly corroded the relationships Federal military commanders once maintained with State and local civil authorities.

Eventually, tensions rose between the DoD and State civil authorities over how domestic disaster response should be facilitated. The DoD concerned itself with civil defense leaving all other disaster preparation and response up to the States. The States disagreed with DoD and insisted the Federal government do more to assist them in preparing for all hazards. During this time, the Federal government passed disaster legislation that created FEMA who was responsible for coordinating all federal assistance to States. It redefined DoDs domestic disaster response role reducing it to a supporting response agency of last resort. In addition, the legislation provided financial incentives to States if they created a State disaster office that would work with the Federal disaster agency adding an additional layer of separation between DoD and State civil authorities.

By 1992, DoDs domestic disaster role was seen as negligible at best by the Federal government, DoD, and State civil authorities. A once ingrained relationship between Federal military high command, and State civil authorities had virtually disappeared. There was no requirement to maintain neither a disaster response relationship nor a perceived need for that relationship. Unfortunately, this was to prove costly when Hurricane Andrew hit the Gulf Coast in 1992 and Hurricane Katrina hit in 2005.

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IV. IMPROVING RELATIONSHIPS TO IMPROVEVE RESPONSE

A. INTRODUCTION

This chapter examines DoD Title 10 initial response to Hurricane Andrew and Katrina. It describes DoDs Title 10 heroic efforts and contributions during both disasters. It highlights how thousands of Federal troops responded to both disasters and how they employed military ships, aircraft, and other equipment to rescue, shelter, feed, and treat a multitude of disaster victims.

This chapter also describes how DoDs initial response to both catastrophic disasters was categorized as slow. It examines how post Hurricane Andrew debates over increasing the military's role in domestic disaster arena as a way to improve response took focus away from a more critical issue; how to improve the relationship between DoD Title 10 forces and State civil authorities? It asserts that a pre-existing collaborative relationship could have improved States' knowledge of DoD response capabilities, removed State hesitation to ask for DoD assistance, and improved DoD anticipatory response actions. It also discusses how months after Andrew, the debate over DoDs Title 10 domestic disaster role subsided. The end result was a heated debate, no change in DoDs role in the domestic disaster arena, no improvement in the relationship between DoD and State civil authorities, and a slow DoD Title 10 initial response to Hurricane Katrina 13 years later.

This chapter concludes by examining post Katrina renewal of the debate over whether an increased military role in the domestic disaster arena would improve response. It discusses how the issue over the military's role became politically charged and quickly turned into debate over if DoD or State civil authorities should be in control of catastrophic disaster response. Finally, it examines how the debate as it did post Andrew diverted attention away from the issue of improving DoD Title 10 response.

B DOD TITLE 10 HURRICANE ANDREW AND KATRINA PARTICIPATION

1. DoD Title 10 Hurricane Andrew Participation

In August of 1992, Hurricane Andrew swept across the Gulf Coast leaving behind a devastating path of destruction. It left 20 people dead, destroyed 80,000 homes and reached an estimated recovery cost of 1.98 billion in 1992 dollars.¹⁴³ DoD's efforts were impressive once they responded to Hurricane Andrew. They brought to bear resources and capabilities that only DoD could provide on such a large scale. The DoD sent over 22,800 Title 10 personnel to Florida and Louisiana to assist with Hurricane Andrew response and relief efforts.¹⁴⁴ The DoD employed everything from Navy ships to Marine helicopters. These assets supplied over 1.9 thousand tons of food products to area Mobile Kitchens Trailers (MKTs) which served some 900,000 meals.¹⁴⁵ The Army and Marines utilized 120 helicopters and delivered 3.5 million pounds of cargo to disaster victims.¹⁴⁶ The DoD also formed a Logistics Support Group, headed up by the Army, to assist in the distribution of relief supplies. The Army established and operated three logistics depots that supported military, civilian, and federal organizations. Their depots consolidated, stored, palletized, and distributed goods throughout much of the disaster area.¹⁴⁷

During Andrew Title 10 personnel also assisted in direct touch humanitarian aid which heavily impacted the people of many devastated communities. Title 10 forces cleared six million cubic yards of debris, provided medical care to 67,000 civilians, and assisted in repairing 98 schools.¹⁴⁸ They set up Life Support Centers (LSC) MKTs, tents, floors, cots, showers, bathrooms, medical services, recreation, and child care. These

¹⁴³McDonnell, 2.

¹⁴⁴ United States General Accounting Office, *Disaster Assistance; DoD's Support for Hurricane Andrew and Iniki and Typhoon Omar*, Washington DC: United States General Accounting Office, June 1993, 2.

¹⁴⁵ Department of the Army, *Forces Command Hurricane Andrew Response: JTF Andrew AAR*, 23.

¹⁴⁶ Ibid., 29.

¹⁴⁷ Ibid., 29.

¹⁴⁸ Department of the Army, *Forces Command Hurricane Andrew Response: JTF Andrew AAR*, 4.

LSCs housed, fed, and provided medical care for an average of 2,400 victims per day.¹⁴⁹ Soldiers went door to door to establish needs and provided information as to locations of LSCs and medical stations. They also performed first aid and deterred looters as they patrolled neighborhoods.¹⁵⁰ The DoDs efforts during Hurricane Andrew were monumental. A General Accounting Office report stated that the military's response to Hurricane Andrew was, "...highly effective in providing supplies and services and in establishing the infrastructure necessary to restore order and meet the immediate needs of victims."¹⁵¹

2. DoD Title 10 Hurricane Katrina Participation

Thirteen years after Hurricane Andrew hit the Gulf Coast, Hurricane Katrina's destruction dwarfed that of Andrew many times over requiring an even larger response by DoD Title 10 forces. Katrina was described as, "an extraordinary act of nature that spawned a human tragedy...the most destructive natural disaster in American history..."¹⁵² as well as "...the most expensive natural disaster in U.S. history..."¹⁵³ After August 29, 2005 the day Katrina made landfall, approximately 90,000 square miles of land, an area the size of the United Kingdom was decimated.¹⁵⁴ Hurricane Katrina destroyed some 300,000 homes.¹⁵⁵ It left behind 118 million cubic yards of debris, estimated to consume the same space as a football field stacked over ten and a half miles high. In addition, it caused 2.5 million power outages in Louisiana, Mississippi, and Alabama. It contributed to the spilling of 7.4 million gallons of oil into the Gulf Coast

¹⁴⁹ Department of the Army, *Forces Command Hurricane Andrew Response: JTF Andrew AAR*, 23 and 6 of Vol. I, Introductory Chapter.

¹⁵⁰ *Ibid.*, p. 28

¹⁵¹ United States General Accounting Office, *Disaster Management: Improving the Nation's Response to Catastrophic Disasters*, 5.

¹⁵² United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 2.

¹⁵³ House of Representatives, *A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, 7.

¹⁵⁴ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 21.

¹⁵⁵ The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, 7.

region's waterways and cost 1,330 people their lives. Over 777,000 people became displaced and over 2,000 reported as missing.¹⁵⁶ The estimated economic loss brought on by Katrina was estimated to be between 125 to 150 billion dollars.¹⁵⁷

Just as the figures show, there is no doubt that Katrina was one of the Nation's most devastating catastrophic disasters. There is also little doubt in anyone's mind that the military response to Hurricane Katrina was not only invaluable, it was also unavoidable. In a testimony given by Secretary of Defense for Homeland Defense, Paul McHale, he stated that "The Department of Defense's response to the catastrophic effects of Hurricane Katrina was the largest military deployment within the United States since the Civil War."¹⁵⁸ Over 50,000 National Guard and 22,000 active-duty personnel responded to Katrina providing critical humanitarian relief that saved lives and eased much of the suffering.¹⁵⁹ A report from the U.S. House of Representatives characterized the DoDs response as heroic crediting it with saving "...many, many lives."¹⁶⁰

The amount of resources provided by the DoD during Katrina was daunting. The military deployed 20 ships; 346 helicopters; and 68 fixed-wing aircraft. They delivered 26.6 million Meals Ready to Eat (MREs), treated 26,304 patients, flew 16,525 sorties, and rescued some 11,000 people.¹⁶¹ They made bases available for FEMA staging.¹⁶² The Navy brought in bulldozers, medical supplies, water purification equipment, and transported enormous amounts of cargo and commodities into hurricane hit areas. The military also used Navy ships as airports, patient treatment centers, and places of rest for

¹⁵⁶ The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, 8.

¹⁵⁷ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 37.

¹⁵⁸ House of Representatives, *A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, 201.

¹⁵⁹ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 476.

¹⁶⁰ House of Representatives, *A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, 14.

¹⁶¹ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 720.

¹⁶² *Ibid.*, 475.

first responders who needed food, water, and a shower.¹⁶³ Title 10 troops performed search and rescue missions, assisted with evacuations, distributed food, removed debris, and controlled traffic.¹⁶⁴ They also provided heavy airlift for commodities, performed medical evacuations, and aided in the reopening of New Orleans and Gulfport airports. Response Groups deployed to the airports and restored navigation systems, lighting, and communication enabling aircraft to takeoff and land.¹⁶⁵ Within 5 days of Hurricane Katrina hitting the Gulf Coast, the DoD was tasked to perform the below list of mission assignments:

- Conduct search-and-rescue operations
- Perform security-capabilities assessment and provide security-capabilities advice and technical assistance
- Collect and evacuate live persons to temporary processing centers
- Collect and remove bodies of deceased persons
- Restore flood-control systems
- Transport and distribute ice, water, food and medical supplies
- Disease prevention and control
- Planning for the quarantine of areas within New Orleans
- Quartering and sustaining of FEMA headquarters support element and relief workers
- Health and medical support
- Debris removal
- Restoration of basic utilities and key transportation routes (land and water)
- Geospatial-surveillance products and evaluations
- Logistical support at key air and sea distribution nodes
- Temporary housing

¹⁶³ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 488-9.

¹⁶⁴ Ibid., 493.

¹⁶⁵ Ibid., 496.

- Long-range communications between headquarters nodes and firefighting¹⁶⁶

During Katrina the DoD was once again asked to undertake a mission the Army had traditionally performed numerous times during disaster responses in the 19th and early 20th century. FEMA asked DoD to undertake the challenge of massive logistics support. Although commodities, supplies, and logistics were a FEMA responsibility during a disaster, FEMA Director Brown wanted the DoD to take over all logistics during Katrina. Ken Burris, FEMAs Acting Director of Operations stated that, “The FEMA logistics capability has been overwhelmed,” and that he “wants DoD to take over logistics operations in Louisiana and Mississippi.”¹⁶⁷ Since DoD was a support agency for all ESFs in the NRP, DoD asked FEMA to modify their request so as not to assume a primary agency role. Ultimately DoD provided “significant assistance” to FEMAs logistics operations for Louisiana and Mississippi. The Assistant Secretary of Defense called it possibly the single most complex civil support mission in DoDs history.¹⁶⁸

C. DOD TITLE 10 SLOW RESPONSE TO HURRICANE ANDREW AND KATRINA

1. DoD Title 10 Slow Response to Hurricane Andrew

Unfortunately, even though DoDs response to Hurricane Andrew was seen as a godsend, its initial response was characterized as slow. The first Title 10 assets did not arrive in Florida until four days after Hurricane Andrew made landfall. Kate Hale, Dade County Director of Emergency Operations during Hurricane Andrew lashed out at the slow response in frustration and stated, “Where the hell is the cavalry on this one?”¹⁶⁹

¹⁶⁶ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 502.

¹⁶⁷ Ibid., 498.

¹⁶⁸ Ibid., 499.

¹⁶⁹ Thomas W. Lippman, "Troops Arrive With Aid In Ravaged South Florida; 'Blame Game' Over Hurricane Efforts Fades," *The Washington Post*, August 29, 1992 http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?risb=21_T2193468437&format=G_NBFI&sort=BOOLEAN&startDocNo=126&resultsUrlKey=29_T2193463892&cisb=22_T2193468443&treeMax=true&treeWidth=0&csi=8075&docNo=128 accessed 10 September 2007.

DoD was criticized for its slow response and marked as being, "...better equipped to help foreign countries than fellow citizens..." There were accusations that delays were partially due to political inaction based on tensions between the Florida's Governor's office and the President's administration.¹⁷⁰ For example, it took Governor Chiles of Florida three days to ask for DoD Title 10 assistance. He stated on August 28, 1992 that the reason he did not ask for military assistance was that he, "...didn't think it was necessary." The Governor's reluctance to call for Title 10 assets heavily contributed to DoD's slow response. When the Governor finally made the formal request for Federal troops, he asked for reserve units that were not eligible to be called up. His lack of knowledge as to how to request assistance and what assistance DoD could render also delayed response. Even though the Governor asked for reserve units, the White House took the request to mean Federal troops and within 24 hours federal soldiers were on the ground in Florida.¹⁷¹

Once the DoD Title 10 assets were sent in to respond to Hurricane Andrew, DoD assistance faced other challenges leading to further delays. Some delays were attributed to the lack of knowledge of DoD's request for assistance process by other Federal agencies. Some Federal officials did not understand that DoD assistance had to be coordinated through ESFs primary Federal agencies and approved by the FCO.¹⁷² Since DoD assistance had to be coordinated and requested through FEMA, many DoD assets were slow to arrive. In addition, FEMA as well as Florida did not know what response capabilities DoD possessed. Florida did not have the assets to conduct rapid damage assessment after Hurricane Andrew hit. This limited the number of requests for DoD assistance during the first few days of the catastrophe because no one knew the scope and

¹⁷⁰ Mary Jordan, "President Orders Military to Aid Florida; Local Relief Officials Fault Federal Response to Hurricane," *The Washington Post*, August 28, 1992
http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?risb=21_T2193468437&format=G_NBFI&sort=BOOLEAN&startDocNo=126&resultsUrlKey=29_T2193463892&cisb=22_T2193468443&treeMax=true&treeWidth=0&csi=8075&docNo=129 accessed 10 September 2007.

¹⁷¹ Lipmann, 1.

¹⁷² United States General Accounting Office, *Disaster Assistance; DoD's Support for Hurricane Andrew and Iniki and Typhoon Omar*, 17.

the severity of the damage.¹⁷³ Had Florida known DoD had extensive damage assessment capabilities, they could have requested those assets, known the extent of the damage, and asked for DoD assistance sooner. Finally, DoD response was categorized as slow because DoD took few actions prior to President Bush's Presidential declaration because they had multiple budgetary and legal concerns. DoD was concerned that if they took predatory steps prior to activation, they would not be reimbursed.¹⁷⁴ They were also concerned about overstepping legal restrictions that governed their domestic response. Governor Chiles witnessed this first hand when he requested an Army engineering battalion and was denied days before President Bush gave the order for DoD Title 10 assets to deploy.¹⁷⁵

The tragedy was that many DoD units stood ready to assist immediately following Hurricane Andrew's destructive blow. One officer quoted in the Washington Post stated, "The military people here are pulling their hair out saying, 'What more can we do?' We're leaning so far forward we're about to hit our nose on the floor." In Louisiana, an Army company was sent to Barksdale Air Force Base with generators waiting for someone to request their use.¹⁷⁶ Unfortunately, these units were not able to respond until days after Andrew struck because of the lack of an official tasking.

2. DoDs Title 10 Slow Response to Hurricane Katrina

Even though DoDs efforts proved instrumental during Katrina, there were once again problems with DoDs initial response. Just as with Hurricane Andrew, DoDs initial

¹⁷³ United States General Accounting Office, *Disaster Assistance; DoD's Support for Hurricane Andrew and Iniki and Typhoon Omar*, 21.

¹⁷⁴ Ibid., 26.

¹⁷⁵ Edmund L. Andrews, "Hurricane Andrew: Bush Sending Army to Florida Amid Criticism of Relief Effort," The New York Times, August 28, 1992
http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?risb=21_T2193636203&format=GNBFI&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29_T2193607218&cisb=22_T2193636205&treeMax=true&treeWidth=0&csi=6742&docNo=20 accessed 10 September 2007.

¹⁷⁶ Barton Gellman, "Army Set to Deploy 2,000 to 5,000 Troops," *The Washington Post*, August 28, 1992
http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?risb=21_T2193468437&format=GNBFI&sort=BOOLEAN&startDocNo=126&resultsUrlKey=29_T2193463892&cisb=22_T2193468443&treeMax=true&treeWidth=0&csi=8075&docNo=130 accessed 10 September 2007.

response was characterized as slow. Their slow response was partly attributed to DoD following pre-established procedures geared towards major disasters. These procedures proved inadequate for a catastrophic disaster.¹⁷⁷ The DoD prepared to respond to Katrina as they had done in the past by taking routine pre-hurricane actions. They essentially waited, as was required of them, for someone to request their assistance. Since Louisiana's Governor did not realize the extent of Katrina's damage, she did not specifically ask for Title 10 assistance. She followed much the same course of action as Florida's Governor had done during Andrew. When Louisiana's Governor did ask for Title 10 assistance, it was asked for through various means, none of which followed the established procedures set out by The Stafford Act, the National Response Plan, or DoD guidance. Louisiana requested federal military assistance through their National Guard Bureau.¹⁷⁸ They also directly asked White House officials for military assistance.¹⁷⁹ The Governor eventually asked the President directly on multiple occasions to send everything he had to include 40,000 Federal troops.¹⁸⁰ One post Katrina finding cited Governor Blanco as submitting, "...an inadequate and erroneous request for assistance to the President..."¹⁸¹

DoD's initial response was also slowed due to having to wait for official requests for assistance from DHS and FEMA. Just as with Andrew, FEMA was overwhelmed, the States went to FEMA for assistance, and FEMA was slow to ask DoD for assistance. Since the DoD operated under a pull system that provided assistance only after requests were asked for, Title 10 resources were not committed during the first few days of Katrina's response. Outside the DoD, FEMA and State officials partially blamed DoD's request for assistance process for why requests were not made to DoD. Many were frustrated with or did not know how to "properly" request DoD assistance. Colonel Richard Chavez, U.S. Air Force, Senior Military Advisor for Civil Support, testified that,

¹⁷⁷ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 475.

¹⁷⁸ Ibid., 520.

¹⁷⁹ Ibid., 521.

¹⁸⁰ Ibid., 504.

¹⁸¹ Ibid., p. 589.

FEMA officials did not always have a good understanding of what assets and resources DOD could provide..." They also did not understand, "...DOD's processes for responding to FEMA's requests for assistance."¹⁸²

DoDs "21 step" request for assistance process which according to DoDD 3025.15 requires DoD to review each request for legality, lethality, risk to DoD forces, cost, appropriateness, and impact to DoD readiness was characterized as overly bureaucratic adding to DoDs slow response. This resulted in cases of unfilled critical needs due to the lack of support.¹⁸³ DoDs "21 step" process was seen as too cumbersome. Many officials did not understand DoDs request process or chose to ignore it. This was apparent even within DoD. General Richard Myers, the Chairman of the Joint Chiefs of Staff stated, "I don't know if we have a 21-step process or not. If we do, it's one that takes 21 seconds to complete." Even Assistant Secretary of Defense McHale stated, "I can tell you, in a crisis, there are no 21 steps for approval." Also within the DoD General Honore, the Commanding General, First U.S. Army took the Chairman's words to heart and ignored the 21 step process. He made personal requests to his fellow generals, some of whom deployed resources.¹⁸⁴

DoDs slow response was also attributed the lack of visibility they had over the amount of damage caused by Katrina. DoD was seen as situationally unaware during the first few days after Katrina made landfall. One finding stated that, "...the Department of Defense lacked timely and accurate information about the immediate impact of Hurricane Katrina. DOD and DHS did not coordinate adequately for the use of DOD assets to make such assessments during this period." Instead of using DoD assets to assess the immediate devastation Katrina had consummated, the DoD relied primarily on media reports to gather information about Katrina. This caused many senior DoD officials to not learn about New Orleans' breached levees until days after they had ruptured.¹⁸⁵ In

¹⁸² United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 482.

¹⁸³ Ibid., 488.

¹⁸⁴ Ibid., 504.

¹⁸⁵ Ibid., p. 16.

essence, DoDs lack of situational awareness led them to rely on DHS and the media for information and FEMA for requests of support instead of immediately working with the States to dispatch damage assessment assets. This considerably slowed DoDs preparation and response posture just as it had done during Hurricane Andrew.

Finally, DoDs slow initial response after Katrina was attributed to a “cultural reluctance” on DoDs part to commit assets and for DoDs lack of planning for a critical role in a catastrophic disaster.¹⁸⁶ Scott Wells, Louisiana’s FCO during Katrina made this statement about the DoD, “It’s hard to get them to do anything where there is a chance of failure... They could have played a faster and bigger role.”¹⁸⁷

D. POST HURRICANE ANDREW DEBATE OVER INCREASED DOD TITLE 10 ROLE IN DOMESTIC DISASTER AREA

1. Post Hurricane Andrew Recommendations to Improve DoD Title 10 Response

Reports issued after Hurricane Andrew enumerated a litany of findings and recommendations that extended beyond DoDs slow response. Many centered round FEMA and how to improve its response capabilities. However, some reports generated recommendations aimed at improving DoD Title 10s initial response. A General Accounting Office report made several recommendations. It suggested that legislation be changed that allowed Title 10 reservists to be activated in the event of a catastrophe.¹⁸⁸ At the time of Hurricane Andrew, Section 673b (b) of title 10 did not allow reservists to be activated during man-made or natural disasters.¹⁸⁹ During Andrew reserve units could not be activated even though their resources were needed. The report also recommended that the Stafford Act be changed to allow pre-event planning by Federal Agencies. This

¹⁸⁶ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 481.

¹⁸⁷ Ibid., 482 .

¹⁸⁸ United States General Accounting Office, *Disaster Assistance; DoD’s Support for Hurricane Andrew and Iniki and Typhoon Omar*, 8.

¹⁸⁹ Ibid., 7.

would allow the DoD to preposition assets, assemble units, and take other preparatory actions prior to a presidential disaster declaration without risking reimbursement.¹⁹⁰

An Army Forces Command After Action Report (FORCECOM AAR) went further than the General Accounting Office report. It recommended that FEMA and DoD rewrite disaster plans to reflect DoD initial response requirements. It advocated giving the DoD provisions that would allow for automatic response to a catastrophic disaster such as a category 4 or 5 hurricane or a 7.0 earthquake occurring in a populated area.¹⁹¹ The FORCECOM AAR also called for DoD to develop Joint Service disaster relief doctrine, better disaster relief plans and the development of “push packages” that would be ready if an automatic response was required.¹⁹² These provisions did not exist when Andrew struck.

2. Post Andrew Debate over DoD Title 10 Having an Increased Role in the Domestic Disaster Arena

The recommendation made by the FORCECOM AAR, that the DoD be given a greater role in domestic disaster response, received much attention. A Congressional hearing on the response to Andrew included testimony by experts who advocated an increased role for the military in disaster response. It was widely held that the military should lead and coordinate disaster response damage assessment in the critical first 24 hours after a disaster. The assistant comptroller general of the General Accounting Office stated that, "The military is the only game in town to come in quickly and effectively after a mega-disaster like Andrew...For catastrophic disasters affecting large numbers of people, the military possesses a unique capacity to bring substantial resources and expertise to bear. And we run the risk that if such help does not come quickly, lives

¹⁹⁰ United States General Accounting Office, *Disaster Assistance; DoD's Support for Hurricane Andrew and Iniki and Typhoon Omar*, 8.

¹⁹¹ Department of the Army, *Forces Command Hurricane Andrew Response: JTF Andrew AAR*, 5.

¹⁹² *Ibid.*, 5-6, 9.

may be lost."¹⁹³ Senator Bob Graham of Florida advocated that the federal government be given the power to mobilize the military after a catastrophic disaster prior to State authorities requesting Title 10 assistance. He insisted that the military's speed, discipline, and hate for paperwork made it, "...uniquely able to augment disaster response efforts..." He ultimately advocated that military personnel training be reoriented to include disaster response.¹⁹⁴

Two former FEMA advisory board members went much further than Senator Graham. They called for a military takeover of domestic disaster response and for the disbandment of FEMA. They specifically wanted DoD to take over responsibility for domestic disaster planning and logistics. They went as far as to say that a lieutenant general be made director of operations for such an agency so ties with the Pentagon would remain strong. These officials reasoned that, "Giving the military responsibility for disaster relief would not only be good for the country, it would be good for the troops, giving them a meaningful mission to maintain their cutting edge."¹⁹⁵

However, not everyone agreed that the military should have an increased role in the domestic disaster arena, let alone lead the effort. The then director of FEMA, Wallace E. Stickney warned that a, "...military takeover of emergency management..." was a "...dicey proposition that gets into complex questions about federal-state relations and about how other nations have fared under military top-down solutions in natural

¹⁹³ William Claiborne, "Enlisting a Better Response to Disaster; Military Should Take Over Some Functions of FEMA, Specialists Say," *The Washington Post*, January 28, 1993
http://www.lexisnexis.com/us/lnacademic/results/docview.do?risb=21_T2193812711&format=GNBFI&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29_T2193809925&cisb=22_T2193812713&treeMax=true&treeWidth=0&csi=8075&docNo=15 accessed 15 September 2007.

¹⁹⁴ Bob Graham, "Andrew, The Enemy We Weren't Prepared to Face," *The Washington Post*, September 9, 1992
http://www.lexisnexis.com/us/lnacademic/results/docview.do?risb=21_T2193812711&format=GNBFI&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29_T2193809925&cisb=22_T2193812713&treeMax=true&treeWidth=0&csi=8075&docNo=24 accessed 15 Sept 2007.

¹⁹⁵ Lawrence J. Korb and Robert H. Kupperman, "Abolish the Disaster Agency," *The New York Times*, September 6, 1992
http://www.lexisnexis.com/us/lnacademic/results/docview.do?risb=21_T2193893174&format=GNBFI&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29_T2193891362&cisb=22_T2193893176&treeMax=true&treeWidth=0&csi=6742&docNo=7 accessed 5 September 2007.

disasters.¹⁹⁶ A 1993 General Accounting Office report agreed with Mr. Stickney. It stated, "...we do not advocate turning over the entire disaster response, relief, and recovery operation to the military. DOD'S role in disaster response needs to remain under the direction of a civilian authority..." It cautioned that giving DoD the domestic disaster mission could detract from its primary responsibilities and that it might look as if the military is making or directing domestic policy. This, according to the report, would run, "...contrary to principles that have guided the military's role in the United States."¹⁹⁷ In addition to the General Accounting Office report, the National Academy of Public Administration's congressionally mandated report also made recommendations opposing the military's increased role in the domestic disaster arena. It voted "no" to:

- The transfer of FEMA to DOD
- The Armed Forces having a larger role in disaster response
- The Armed Forces taking on the role of coordinating emergency management and disaster response¹⁹⁸

The post Andrew debate over whether the military should take an increased role in disaster response eventually faded. The military did not want the additional mission and the States and two government reports opposed the military's increased role in the disaster response arena. So the government focused on strengthening FEMA. James L. Witt was appointed in 1993 by President Clinton as FEMAs new director. Witt was hired to reform and streamline FEMAs disaster relief and recovery operations.¹⁹⁹ He took FEMA in a new direction. This took the response spotlight off of DoD which ended the debate over giving them an increased role in the domestic disaster arena. Once again,

¹⁹⁶ William Claiborne, "After Storms and Controversy, What's in Store for FEMA?; Response to Andrew Didn't Meet Expectations, Director Says," *The Washington Post*, October 6, 1992 http://www.lexisnexis.com/us/lnacademic/results/docview/docview.do?risb=21_T2193812711&format=G_NBFI&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29_T2193809925&cisb=22_T2193812713&treeMax=true&treeWidth=0&csi=8075&docNo=16 accessed 5 September 2007.

¹⁹⁷ United States General Accounting Office, *Disaster Management: Improving the Nation's Response to Catastrophic Disasters*, 8.

¹⁹⁸ National Academy of Public Administration, *Coping With Catastrophe: Building an Emergency Management System to meet People's Needs in Natural and Manmade Disasters*, Washington DC, February 1993, 24.

¹⁹⁹ History of the Federal Emergency Management Agency." FEMA <http://www.fema.gov/about/history.shtm> accessed 10 October 2007.

order was restored and everyone was back in their “emergency response lane.” DoD returned its focus to national security. FEMA focused on reinventing how it would respond to the next catastrophe. The States focused on ways to better prepare themselves before the next “big one” hit.

Unfortunately, the debate over DoDs role in the disaster arena resulted in some unintended consequences. It took the focus away from discussing ways to improve DoD response. Those involved failed to address a key issue: what should be done to build a collaborative response relationship between DoD Title 10 and State civil authorities. This issue should have been evident considering that the events of Hurricane Andrew exemplified how the poor relationship between DoD and State civil authorities impeded DoDs initial response. First, Florida’s Governor hesitated for three days before he asked for Title 10 assets. Had he not hesitated, DoD assets could have responded earlier. Second, Florida civil authorities demonstrated a lack of knowledge as to what response capabilities DoD possessed and which they could legally request. Had State civil authorities known about and requested DoDs damage assessment capabilities, response could have been accelerated. Finally, DoD did not prepare for and anticipate State needs. Had they done so, they could have employed DoD response resources days earlier.

Instead of focusing on the causal factors that led to DoDs poor response, the debate masked this key issue. This diversion ultimately led to no change in DoDs role in the domestic disaster arena, no improvement in the relationship between DoD and State civil authorities, and a slow DoD Title 10 initial disaster response to Hurricane Katrina 13 years caused by nearly the same factors as Andrew. As with Andrew, during Katrina the Governor hesitated to ask for military, the State had limited knowledge of DoD response capabilities, and DoD Title 10 took few preparatory actions in anticipation of their required response. The only difference this time was that it was the people of Louisiana not Florida who had to waited for the “cavalry” to respond.

3. Post Hurricane Katrina Recommendations to Improve DoDs Title 10 Response

Post Hurricane Katrina, there were even more recommendations and findings than those cast out during Andrew. Many recommendations focused on ways to improve DoDs response. One report stressed DoD and DHS improve their interagency coordination. It recommended DHS officials receive training on DoD capabilities and authorities during emergencies. It also recommended that both agencies increase the number of exchange officials at headquarter levels in areas such as planning, training, and exercising.²⁰⁰ Other recommendations centered round better integration of Title 10 forces with National Guard forces during catastrophic disasters. It was recommended that USNORTHCOM and the National Guard Bureau (NGB) expand the number of Guard personnel at USNORTHCOM and integrate them into planning, training, and exercising, and response efforts.²⁰¹ In addition, recommendations stated that, “DOD should consider chartering the NGB as a joint activity of the DOD.” This would allow the NGB, to among other things provide better communication between DoD and each State’s Guard.²⁰²

Some even recommended the DoD restructure in order to improve its disaster response. One report stated that DoD should create six divisional units trained and ready to respond to catastrophic events in the United States.²⁰³ While a White House report made several controversial recommendations aimed at giving the DoD an increased or even a lead role in domestic disaster response. It advocated that:

- DOD and DHS should develop recommendations for revision of the NRP to delineate the circumstances, objectives, and limitations of when DOD might temporarily assume the lead for the Federal response to a catastrophic incident.

²⁰⁰ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 618.

²⁰¹ Ibid., 627

²⁰² United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 97.

²⁰³ Alane Kochems, *Military Support to Civilian Authorities: An Assessment of the Response to Hurricane Katrina*. The Heritage Foundation, November 28, 2005.

- DOD should revise its Immediate Response Authority (IRA) policy to allow commanders, in appropriate circumstances, to exercise IRA even without a request from local authorities.²⁰⁴

4. Post Katrina Debate over DoD Title 10 Having an Increased Role in the Domestic Disaster Arena

The recommendations to give DoD an increased role in the domestic disaster arena rekindled the debate that had died post Andrew. This time it would be politically charged, and quickly turn into a battle over who would be in control of response. Much the same unintended consequences would ensue as did during the post Andrew debate. The causal issues that contributed to DoDs slow initial response would be overlooked due to the emotions the control issue would insight.

The seeds for this debate were planted on 15 September 2005 when President Bush addressed the nation from New Orleans. It had only been 17 days since Hurricane Katrina made landfall, forever reshaping and changing the landscape and the lives of those who called New Orleans and much of the central coast home. The President spoke of “fellow citizens left stunned and uprooted, searching for loved ones, and grieving for the dead, and looking for meaning in a tragedy that seems so blind and random.” He also lamented about the, “...kind of desperation no citizen of this great and generous nation should ever have to know -- fellow Americans calling out for food and water, vulnerable people left at the mercy of criminals who had no mercy, and the bodies of the dead lying uncovered and untended in the street.”²⁰⁵

The aftermath of Hurricane Katrina left the nation and the world at a loss. Some were shocked by the devastating destruction that the storm wrought. Others, to include President Bush, were shocked at what seemed an inadequate disaster response waged by the most powerful nation in the free world. After all, how could a nation such as the

²⁰⁴ The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, 94.

²⁰⁵ “President Discusses Hurricane Relief in Address to the Nation,” *The White House*, 15 September 2005 <http://www.whitehouse.gov/news/releases/2005/09/20050915-8.html> accessed 13 August 2007.

United States accept an estimated 1,330 deaths, 770,000 displaced persons and so much suffering within its own civilized and modern boarders?²⁰⁶

President Bush made clear in his address that the United States normal disaster relief system was not equal to the task of responding to Katrina. He stated that the disaster response "...system, at every level of government, was not well-coordinated, and was overwhelmed in the first few days." He went further to say, "It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces -- the institution of our government most capable of massive logistical operations on a moment's notice."

President Bush's implication that the military should play a broader role in disaster response did not resonate well with many public officials, especially those concerned with States' rights. During a November 9, 2005 House of Representative Homeland Security Subcommittee Meeting, Chairman Dave Reichert (R-WA) voiced his concerns when it came to placing the military in a "...primary role in responding to catastrophic emergencies."²⁰⁷ He cautioned that, "...under our Nation's constitutional framework, state and local governments take the lead role in responding to disasters and emergencies, while the federal government and the military take a supporting role." He stated, "As the former Sheriff of King County, Wash., I fear that an enhanced role for the military in responding to disasters and emergencies may undermine federalism..."²⁰⁸

In addition to Representative Reichert, a great deal of wailing and gnashing of teeth came from state organizations and governors. They vehemently opposed President Bush's proposition of an increased military role in disaster response. Within two months of one another The Council of State Governments, The National Emergency Management Association (NEMA) and The National Governors Association (NGA) all spoke out

²⁰⁶ The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, Chapter 1, 8

²⁰⁷ "Chairman Reichert Remarks on Military's Role in Disaster Response," *Committee on Homeland Security*, November 9, 2005 http://chs-republicans.house.gov/Files/LatestNews/Multimedia/Reichert%20StatemenMilitaryRole110905_0.pdf accessed 11 August 2007.

²⁰⁸ *Ibid.*, 2

against an increased role for the active military in disaster response.²⁰⁹ Some governors such as NGA Chairman Arkansas Governor Mike Huckabee did not mince words as he plainly stated his opposition to an increased military role in disaster response. The Arkansas Governor stated:

I haven't heard any governors say 'That's a great idea. I'll give up my power to an unelected general to oversee my state.' That would be a significant, almost revolutionary change in government policy and practice . . . You're going to have a pushback from governors, county executives, mayors, fire chiefs, police chiefs all up and down the emergency--management structure . . ."210

Montana Governor Brian Schweitzer stated, "People in Washington, D.C. can yap all they want, but they're not going to undermine the constitution of the state of Montana."²¹¹

As the argument became one of States' rights and "who's in charge" of response, it drew attention away from what needed be done in order to improve DoD Title 10 response. There was contention over who Title 10 and National Guard personnel would be led by if large numbers of both Title 10 and National Guard troops were deployed during a catastrophic disaster. This argument specifically stemmed from the lack of coordination between Title 10 and National Guard personnel during Hurricane Katrina.²¹² The lack of coordination in part was blamed on a dual command structure where Title 10 troops were commanded by an active duty general and Guard troops were commanded by a Guard general negating the principle of unity of command.²¹³ By

²⁰⁹ "NEMA Policy Position on the Role of the Military in Disaster Response," *National Emergency Management Association*, November 2005 <http://www.nemaweb.org/?1512> accessed 13 August 2007, "Resolution on the Role of the Military in Disaster Response," *The Council of State Governments Intergovernmental Affairs Committee*, December 3, 2005 <http://www.csg.org/policy/documents/MilitaryResponse.pdf> accessed 13 August 2007, "NGA Statement on Federalizing Emergencies," *National Governor's Association*, October 13, 2005 <http://www.nga.org/portal/site/nga/menuitem.6c9a8a9ebc6ae07eee28aca9501010a0/?vgnnextoid=ed92e01d63ae6010VgnVCM1000001a01010aRCRD> accessed 18 August 2007.

²¹⁰ "NGA Statement on Federalizing Emergencies," *National Governor's Association*, 1.

²¹¹ Ibid., 1.

²¹² United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 525, The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, 55.

²¹³ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 525.

having two separate chains of command the governor was able to maintain control of National Guard assets under state and Title 32 status and the Secretary of Defense and the President retain control over Title 10 assets. The problem was that the President and the DoD felt that the size of the military response by Federal and Guard troops warranted a single commander and the Governors of Louisiana and Mississippi dismissed the concern. During Katrina, Governor Blanco refused to federalize the Guard and kept them under her control.²¹⁴ This led to a lack of unity of effort between the Federal troops and the National Guard, a lack of situational awareness of National Guard by USNORTHCOM, and a reduction of efficiency as to how military forces were used during Katrina. An example of this was when, "...FEMA requested assistance from DOD without knowing what State National Guard forces had already deployed to fill the same needs."²¹⁵

A 2007 Congressional commission on the National Guard stated that the Guard should be better resourced by DoD and should be the primary organization responsible for responding to domestic catastrophic disasters. It also stated that the Guard should remain under State control and if Title 10 forces were brought in then they should fall under the command of a dual hatted National Guard commander. In a memo signed by Secretary of Defense Gates responding to the commissions recommendations, he disagreed and stated that DoD Title 10 forces would remain under his and the Presidents control and not fall under State control.

The post Hurricane Katrina political wrangling over the role of Title 10 forces in disaster response has been counterproductive. It has increased an institutional wedge between DoD Title 10 and State civil authorities that once did not exist. Instead of arguing over the response role of Title 10 forces and "who's in charge", DoD and State civil authorities should work on building a collaborative relationship so that Title 10 response in support of States can be improved prior to the next catastrophic disaster. Currently, the argument has many states equating Title 10 response to mean Federal

²¹⁴ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 532.

²¹⁵ The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, 63.

control over disaster operations. This sentiment was expressed by Governor Frank Keating of Oklahoma as he described his experience with the Oklahoma City Bombing in 1995. He stated, “Perhaps the strongest lesson from Oklahoma City...concerns the almost instinctive urge common to officials of federal agencies and the military to open the federal umbrella over any and all functions or activities. Simply put, the federal government all too often acts like the 500-pound gorilla.”²¹⁶

The focus on “who’s in charge” has created animosity and suspicion between DoD and some States. Instead of a marriage, the relationship is more in line with a not so cordial divorce. As mentioned earlier, DoDs slow response to Katrina, as with Andrew, was in part due to the same factors: the governor’s hesitation to ask for Title 10 assets, the lack of knowledge on the part of civil authorities as to what response capabilities DoD possessed, and DoDs lack of anticipation, preparation, and knowledge as to the needs and expectations of the States.

It is unfortunate that DoDs slow response to both disasters was attributable to many of the same causal factors. However, it would be unconscionable if the debate over control continues to act as a barrier, preventing DoD and State civil authorities from building a collaborative relationship that would improve DoDs disaster response to the next catastrophic disaster. It took 13 post Andrew years to remind DoD and the States that DoD is a critical, necessary, and required component in the Nation’s domestic response arena. Therefore, before the next catastrophic disaster strikes DoD and State civil authorities need to build a collaborative relationship:

- That moves past control
- Encourages State civil authorities to ask for immediate DoD Title 10 assistance
- Facilitates the building of knowledge by both DoD and State civil authorities of each others response capabilities and limitations
- Encourages DoD to anticipate responding and preparing for that response

²¹⁶ Frank Keating, “Catastrophic Terrorism-Local Response to a National Threat,” August 2001 <http://www.homelandsecurity.org/journal/articles/Keating.htm> accessed May 20, 2007.

The question now is what can be done to build a collaborative relationship between DoD and State civil authority so that DoD initial response can be improved?

V. FINDINGS, RECOMMENDATIONS, AND CONCLUSION

A. INTRODUCTION

Chapter V concludes this thesis by presenting findings directed to answer why DoD Title 10 and State civil authorities do not currently have a collaborative domestic disaster response relationship. It offers policy recommendations based on those findings. The recommendations are focused on how to create relationship building mechanisms that will lead to disaster response collaboration and move away from the issue of control. This is done with hopes that, if implemented, the recommendations will be used to improve DoD Title 10 response prior for the next domestic catastrophic disaster.

B. FINDING: CURRENT STATUTES AND DOCTRINE DISCOURAGE COLLABORATIVE RELATIONSHIP BUILDING BETWEEN DOD TITLE 10 AND STATE CIVIL AUTHORITIES

Current federal statutes, executive orders, and DHS/DoD documents and directives are written in ways that discourage collaborative relationship building between DoD Title 10 and State civil authorities. The Stafford Act is the principle legal document that governs Federal and State government disaster responsibilities. By doing so, it sets the tone for most other authoritative disaster documents. For example, DHS and DoD documents and directives, such as the NRP and DoDD 3025.1 are written to comply with authorities and responsibilities enumerated in The Stafford Act. The Stafford Act's intent is, "...to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters."²¹⁷ Unfortunately, Congress placed provisions within The Stafford Act that unintentionally discourages relationship building between DoD and State civil authorities.

There are two main provisions in The Stafford Act that discourage relationship building between DoD and State civil authorities. First, FEMA is given the sole

²¹⁷ Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and Related Authorities *FEMA 592*, 1.

responsibility to lead, coordinate, and partner with all agencies prior to and during domestic all disaster response and relief operations, to include those considered and/or characterized as catastrophic in nature. Second, The Stafford Act does not have provisions that differentiate between a major and catastrophic disaster, therefore it never addresses the unique role DoD will play during catastrophic disasters. The Stafford Act charters FEMA to:

- Lead the Nation's efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents
- Partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, and with nongovernmental
- Develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property or public health and safety
- Coordinate with...agencies and offices in the Department to take full advantage of the substantial range of resources
- Provide funding, training, exercises, technical assistance, planning, and other assistance to build tribal, local, State, regional, and national capabilities²¹⁸

The above provisions set out in The Stafford Act make it clear that all entities, to include DoD and State civil authorities, work through FEMA. DoD and State civil authorities have no requirement or incentive to build collaborative relationships amongst themselves. It is therefore FEMA that partners with DoD; FEMA that partners with State civil authorities; FEMA that familiarizes itself with DoD capabilities, and FEMA that is responsible to understand what disaster assistance States may require. The provisions in the Stafford Act simply nullify any reason nor provide any incentive for DoD and State civil authorities to build collaborative relationships without FEMA initiating such actions. More poignantly, those provisions in The Stafford Act discourage direct relationship building between DoD and State civil authorities because doing so may be perceived by DHS as “stepping on FEMA’s toes” or “moving into FEMA’s lane”.

²¹⁸ Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and Related Authorities *FEMA* 592, 94-5.

The second way The Stafford Act discourages DoD and State civil authorities from building a collaborative relationship is by not differentiating between a major and catastrophic disaster. Hurricanes Andrew and Katrina proved that disasters of such magnitude must be treated and responded to differently than major disasters. Yet, The Stafford Act still does not separate the two. This has led to the lack of provisions that recognize DoDs increased support and response role during catastrophic disasters. By not making a distinction in The Stafford Act that recognizes the difference between major and catastrophic disaster and DoDs increased role in the latter, there are few incentives to encourage DoD and State civil authorities to build a collaborative relationship aimed at improving DoD response.

1. Recommendation: Amend Safford Act to Account for the Difference between Major and Catastrophic Disaster and DoDs Increased Role in the Latter

The Stafford Act should be amended so that it accounts for the differences between major and catastrophic disasters and adds provisions that recognize DoDs increase role and responsibilities when responding to a catastrophic disaster. As early as 1993, Florida officials recognized a similar need after Hurricane Andrew devastated the Gulf Coast. They recommended that state and local governments within Florida use minor, major, and catastrophic disaster categories when planning. Florida officials defined major and catastrophic disasters as follows:

- **Major disasters** means disasters that will likely exceed local capabilities and require a broad range of state and federal assistance, such as a category one to three hurricane.
- **Catastrophic disasters** means disasters that will require massive state and federal assistance, including immediate military involvement, such as a category four or five hurricane that hits a densely populated area.²¹⁹

Florida officials specifically acknowledged that major and catastrophic disasters and response to such disasters were different. They also acknowledged that catastrophic disaster response would include immediate military involvement. Creating a separate

²¹⁹ “Governor’s Disaster Planning and Response Review Committee Report,” State of Florida, January 1993 <http://www.floridadisaster.org/dem/files/lewisr.pdf> accessed September 20 2007, 4.

catastrophic disaster category within The Stafford Act, that recognizes the DoDs increased role and responsibilities during such an event, would institutionalize the requirement for DoD and State civil authorities to build a collaborative disaster response relationship.

Under the current Stafford Act, a catastrophic disaster is considered no different than a major disaster. During Andrew and Katrina, although both disasters were catastrophic, the Governors could only declare a major disaster. Once the Governors realized the situation was grave they had no mechanism nor were there procedures in place to elevate the severity and immediately notifying all agencies that the response effort needed to be refocused in order to deal with a catastrophe. Instead, it took days for DoD, State, and Federal authorities to change their response mindset. By adding a catastrophic disaster category to The Stafford Act, it will signal or “trigger” to all responsible agencies that if declared substantial response will be needed, to include immediate response by DoD in support of the Governor. For the Governor, it would be an acknowledgement that he/she expects and accepts DoD response under the pre-established plans and procedures developed under the provisions of the catastrophic disaster category of The Stafford Act. For the DoD, it will provide reassurance that State civil authorities understand and accept how they will respond because they will be doing according to the same plans and procedures State civil authorities State civil authorities agreed upon.

To ensure those plans and procedures are in place, one provision under the catastrophic category should mandate increased disaster planning coordination between DoD and State civil authorities. This will lead to increased communication, relationship building, and fulfill a critical need. To illustrate the planning need, an exploratory review of State and local emergency response plans found little to no mention of how DoD

resources would be incorporated during a catastrophic response within a State.²²⁰ This is despite a 2006 Nationwide Plan Review conducted by DHS revealing that, “The majority of the Nation’s current emergency operations plans and planning processes cannot be characterized as fully adequate, feasible, or acceptable to manage catastrophic events as defined in the National Response Plan (NRP).”²²¹ This point was further emphasized by a 2006 Little Hoover Commission report that outlined essential steps California needed to take relating to leadership and planning for catastrophes. They concluded that, “The State has not put in place the plans and strategies or designed and deployed the tools needed to respond to the inevitable catastrophic event.”²²² It cited California’s Office of Emergency Services as admitting that California’s Emergency plan was not adequate and that a catastrophic event would overwhelm local government and the state’s mutual aid system.²²³ One step the committee recommended was for California to clarify the relationship between military force support during emergency response. This would include what military assets were available and how to integrate those assets into the State’s emergency response strategy.²²⁴

Finally, although controversial, the catastrophic disaster provision under the Stafford Act should include the critical acknowledgement that the DoD, under extraordinary circumstances, may be required to assume a leading disaster response role during the first few days of a catastrophic disaster. This will force DoD, DHS, and States to deal with the rare eventuality of such an event. Currently, DoD and State civil authorities are tiptoeing around, ignoring, or arguing over the issue because it is

²²⁰ New Mexico All-Hazard Emergency Operations Plan, Alabama Emergency Operations Plan, State of Colorado Emergency Operations Plan, Boulder, Colorado Emergency Operations Plan, City of Albuquerque All-Hazards Emergency Operations Plan, City of Austin Emergency Operations Plan, Empire County Comprehensive Emergency Management Plan, Pahrump, Nevada Comprehensive Emergency Management Plan, City and County of San Francisco Emergency Operations Plan, Ashtabula County All Natural Hazards Mitigation Plan., Los Angeles County Operational Area Emergency Response Plan: Tsunami Annex, City of Portland, Oregon Basic Emergency Operations Plan, and Horry County, South Carolina Emergency Management Plan

²²¹ Department of Homeland Security, *National Response Plan*, 2-ix.

²²² “Little Hoover Commission,” State of California, April 27, 2006
<http://www.lhc.ca.gov/lhcdir/184/report184.pdf> accessed 10 June 2007, Chairman’s note

²²³ Ibid., 13.

²²⁴ Ibid., 18.

politically sensitive versus tackling it head on. If not addressed, tensions between DoD and State civil authorities will persist, straining an already virtually non-existent relationship doing little to improve DoD catastrophic response.

One Post Katrina report made it clear. It stated, "...limitations under Federal law and DOD policy caused the active duty military to be dependent on requests for assistance. These limitations resulted in a slowed application of DOD resources during the initial response."²²⁵ If The Stafford Act is not amended and relationships not built, State reluctance to request DoD assets because of tensions over control will persist. If recommendations in the same report such as, under certain circumstances DoD "push" resources to State and local governments without prior request are implemented in an effort to improve DoD response,²²⁶ without pre-established collaborative relationships, DoD response may actually be rejected by States. Take for example when, at the end of 2005, USNORTHCOM attempted to send in Lt. General Robert T. Clark into Florida prior to Hurricane Wilma. Clark wanted to start flying in equipment and establish a Joint Task Force Command. Florida's Governor called Secretary Chertoff and complained, "...that the federal government's unilateral actions were "insulting" to him...and all Florida citizens."²²⁷ USNORTHCOM and DHS was simply attempting to "push" assets in and assist, but State civil authorities felt threatened and insulted because the Federal government and DoD was stepping on their toes. Had a relationship between DoD and Florida civil authorities been established prior to Wilma, DoD intentions may have been better communicated and understood. Instead, the lack of a relationship turned DoD's gesture of assistance into dispute over control of disaster operations. Amending The Stafford Act to differentiate between major and catastrophic disasters ensuring to recognize DoD's role in the latter will force DoD and State civil authorities to collaborate and better plan and prepare for the inevitable resulting in an improved DoD response.

²²⁵ The White House, *The Federal Response to Hurricane Katrina - Lessons Learned*, 54.

²²⁶ Ibid., 54.

²²⁷ Robert Block and Amy Schatz, "Storm Front: Local and Federal Authorities Battle to control Disaster Relief; Florida Beat Back Washington During Hurricane Wilma; A Video-Conference Coup; Mr. Fugate Seizes 300 Phones", *Wall Street Journal*, New York, N.Y. December 8, 2005.

C. FINDING: THERE IS A NEED AND A DESIRE TO BUILD A COLLABORATIVE RELATIONSHIP BETWEEN DOD AND STATE CIVIL AUTHORITIES SO THAT DOD INITIAL RESPONSE CAN BE IMPROVED YET FEW MECHANISMS EXIST TO FOSTER THE RELATIONSHIP.

DoDs slow response to Hurricanes Andrew and Katrina demonstrated the need for DoD and State civil authorities to build a collaborative relationship. During those catastrophes, State civil authorities lacked knowledge of DoD capabilities and limitations. A FORCECOM AAR report stated that during Andrew, “many of the participants in the relief effort lacked familiarity with other agencies’ equipment, operational procedures, and capabilities in providing relief support.” Specifically, there was inadequate knowledge about the military’s damage assessment capability on the part of State agencies.²²⁸ During Katrina, DoDs slow response demonstrated that they lacked knowledge about State capabilities, requirements, and limitations. In both cases, DoD was not prepared to respond immediately with the needed disaster resources. In 2003, a Defense Science Board found that past DoD civil support problems, “...involved the coordination between military authorities and key local and state civil authorities...”²²⁹ Three years later, a United States Government Accountability Office, “found a lack of understanding within the military and among federal, state, and local responders as to the types of assistance and capabilities that DOD might provide in the event of a catastrophe...some of the military’s available assets were never requested or proactively deployed.”²³⁰ This emphasizes the existing need for DoD Title 10 and State civil authorities to build relationships so that they can gain a better understanding of each others capabilities, requirements, and limitations, thereby improving DoD initial response.

²²⁸ Department of the Army, *Forces Command Hurricane Andrew Response: JTF Andrew AAR*, 5.

²²⁹ John Milliman, John Grosskopf, and Ozzie E. Paez, “An Exploratory Study of Local Emergency Managers’ Views of Military Assistance/Defense Support to Civil Authorities (MACA/DSCA), *Journal of Homeland Security and Emergency Management*, Vol. 3, No. 1, 2006, 1.

²³⁰ United States Government Accountability Office, *Catastrophic Disasters: Enhanced Leadership, Capabilities, and Accountability Controls Will Improve the Effectiveness of the Nation’s Preparedness, Response, and Recovery System*, 27.

The need has also been emphasized by both DoD and State civil authorities. DoDs newly revised, September 2007, Civil Support publication clearly states that there is a critical, "...need to establish workable and effective interagency relationships and partnerships, in advance of a crisis or contingency..."²³¹ David Quam, the Federal Relations Director of the National Governors Association during a visit to USNORTHCOM stated, "NORTHCOM has a mission to protect the United States and the citizens thereof. It's a shared responsibility...It's great to be here to try to establish that partnership and the relationship we need to do that effectively."²³²

In addition, two post Katrina studies showed that there was a lack of understanding by State civil authorities as to DoDs Title 10 role in disaster response, further indicating a need for the building of a collaborative relationship. The first study published in 2006 by RAND surveyed local, state, and health authorities. It indicated that the events of Hurricane Katrina, "...highlighted the differing expectations that state and local officials have with respect to the role of federal military and the National Guard in responding to a major catastrophe."²³³ It went on to state that differing expectations of the military could have been in part due to the lack of knowledge of legal restrictions or even misunderstandings about roles and responsibilities of the military during domestic responses.²³⁴ Under the Posse Comitatus Act of 1878 federal military members are prohibited from conducting domestic law enforcement activities yet, 74% of local Office of Emergency Management (OEM) and 27% of state OEMs responded by saying they expected Federal troops to maintain order and provide security during a terrorism-related incident.²³⁵ Ironically DoDs 2007 Joint Publication 3-28 states that introducing federal

²³¹ Department of Defense, *Joint Publication 3-38, Civil Support*, Washington DC, Department of Defense, September 14, 2007 <http://www.fas.org/irp/doddir/dod/jp3-28.pdf> accessed 24 October 2007, I-6.

²³² Gail Braymen, *USNORTHCOM Hosts Partnership Day*, May 2, 2007 <http://www.northcom.mil/News/2007/050207.html> accessed 27 October 2007.

²³³ Lois M. Davis, Louis T. Mariano, Jennifer E. Pace, Sarah K. Cotton, Paul Steinberg, *Combating Terrorism: How Prepared Are State and Local Response Organizations?* Santa Monica, CA: RAND Corporation, 2006, XVIII.

²³⁴ Ibid., 39.

²³⁵ Ibid., 38.

forces into a civil response requires a clear understanding of authorities and their limits because State officials may not understand those limits.²³⁶

The second study specifically focused on how knowledgeable local Emergency Managers (EMs) were of DoD support to civil authorities. Although focused at the local level, the results of the study brings into question why State civil authorities are not pushing information down to local EMs about DoD support. The study concluded:

The overall results of this exploratory study indicate some strong concerns about the DSCA process and its implementation from the viewpoint of EMs. The data indicates that...a majority of the EMs in this sample did not have a strong understanding of how this process works.²³⁷

To drive the point home, the study included quotes from several local emergency managers that indicated a desire to know more about DSCA (previously referred to as MACA):

It is obvious to me from this survey that I have much to learn and would appreciate any training (preferably local or regional) that could be offered.

Being as I have never heard of it, perhaps it should be publicized more?

Truthfully, I am not very familiar with the MACA, but would appreciate the opportunity to learn more.

Please provide me with all information you can on the MACA.

Prior to receiving this survey I was unaware of MACA even though we have utilized military assistance in the past. I think that additional training on this program is necessary.²³⁸

Along with the need to build a collaborative relationship between DoD and State civil authorities, there is the desire by some States to do so. Several State emergency management officials during phone interviews when asked about building increased ties with NORTHCOM/DoD made the below comments:

²³⁶ Department of Defense, *Joint Publication 3-38, Civil Support*, I-1.

²³⁷ Milliman, 12.

²³⁸ *Ibid.*, 7.

We need to close the gap between DoD and States, build trust and learn about how the system really works.²³⁹

I think they [NORTHCOM/DoD] need to spend more time with State authorities. At a minimum they should meet the Governor, the Adjutant General, and the State Emergency Management Director.²⁴⁰

DoD and States need to look at response gaps and how they plan on supporting the States. They also need to understand how the Governor wants to plan for response in the State.²⁴¹

Emergency Management is about relationships. NORTHCOM has a lot to offer, we just don't know what. Do they know the needs of the States when they come to assist us?²⁴²

NORTHCOM/DoD needs to open more lines of communications with regards to the intentions of their response plans.²⁴³

It's important DoD understand the nuances of the States. It's not going to work if they don't know what to bring. When they do come we expect them to work out of our State EOC. Yes, we want more interaction with DoD. We have been accredited by Emergency Management Accreditation Program (EMAP). NORTHCOM needs to reach out and take a look at how we are doing business.²⁴⁴

I think the ties that need to be built are educational ones, in which the ever-changing face of the military gets oriented to the states which they may have to support in a disaster. Training and familiarization with what already exists at the state and local levels in terms of capabilities will help

²³⁹ Kenneth D. Murphy, Director Oregon Emergency Management. Phone interview by author, 14 September 2007.

²⁴⁰ Kenneth D. Murphy, Director Oregon Emergency Management. E-mail correspondence with author, 14 September 2007.

²⁴¹ Colonel Ron L. Weaver, Chief of Staff Joint Forces Headquarters, Washington State National Guard. Phone interview by author, 28 September 2007.

²⁴² Dr. Terry Egan, Planning and Exercise Training Unit Manager, Washington State Emergency Management Division. Phone interview by author, 19 September 2007.

²⁴³ Major Tad Warfel, Florida National Guard Liaison, Phone interview by author, 14 September 2007.

²⁴⁴ Jim Watts, Chief of Operations, Illinois Emergency Management Agency. Phone interview by author, 13 September 2007.

in shaping the force with appropriate complementary equipment, training, and force structure to maximize disaster response capabilities and the more traditional roles of the U.S. military.²⁴⁵

The above State representatives made it clear that they wanted a better relationship and more outreach from DoD/USNORTHCOM. However, not all State emergency management officials felt the same. Some stated they were content with the current relationship. Their comments are below:

We are aware of what DoD/NORTHCOM has to offer, but there is no need to ramp up our relationship based on our state vulnerabilities, risk assessment, and the limitations we have due to our small State staff. The relationship we have with DoD is appropriate.²⁴⁶

We have a relationship with the DCO and that is sufficient for us.²⁴⁷

Even though not all State civil officials expressed a desire to build increased relationships with DoD, it was clear that there is both a need and an overall desire for an increased relationship. Unfortunately, there are currently few existing mechanisms aimed at fostering that relationship between DoD and State civil authorities. The recommendations below are aimed at reducing that deficiency thereby ultimately contributing to a collaborative relationship that leads to improved DoD initial response when the next catastrophic disaster occurs.

1. Recommendation: Expand Charter of Council of Governors so that It Focuses on More than DoD/National Guard Issues

In March of 2007, the Commission on the National Guard and Reserves released a report that recommended changes to the National Guard and other reserve Components so that they could best meet the needs of United States national security. The report examined proposals aimed at enhancing the status and institutional powers of the

²⁴⁵ Harry Colestock, Director of Operations, Virginia Department of Emergency Management. E-mail correspondence with author, 19 September 2007.

²⁴⁶ Al Berndt, Assistant Director, Nebraska Emergency Management Agency. Phone interview by author, 13 September 2007.

²⁴⁷ Terri Smith, Response Recovery and Mitigation Branch Director, Minnesota Homeland Security and Emergency Management. Phone interview by author, 13 September 2007.

National Guard Bureau and improving their resources and capabilities in regard to homeland missions.²⁴⁸ One report finding stated, “Governors do not have a formal mechanism to consult with the Department of Defense on decisions affecting the National Guard of their state, including how the National Guard is organized, manned, trained, equipped, and utilized.”²⁴⁹ The Commission recommended that Congress establish a bipartisan Council of Governors composed of 10 governors that would meet with and advise the Secretary of Defense, the Secretary of Homeland Security, and the White House Homeland Security Council on matters related to the National Guard and civil support missions. The Council of Governors main purpose would be to discuss issues of concern related to the National Guard, issues such as funding and resourcing.²⁵⁰

The intended purpose of the Council of Governors should be expanded so that it considers more than National Guard issues. The Council should be used as a mechanism that encourages a collaborative relationship between State Governors and senior DoD officials. Catastrophic disaster response strategy, expectations, and DoD civil support issues should be topics of discussion during their meetings. This would ensure issues that have continually resurfaced after each catastrophic disaster, such as request for assistance procedures, damage assessment capabilities, and DoD response planning, are resolved in ways both DoD and Governors concur with. The Council could also be used as forum for Governors and DoD officials to come together after large DoD civil support events so that supported Governors could discuss what went right and what went wrong. The Council of Governors should be DoDs executive level civil support that moves DoD and State civil authorities beyond the issue of control. It should be the forum that enables both entities to place their differences aside and focus their efforts on ways to improve DoDs support for and response to the next catastrophic disaster.

²⁴⁸ U.S. Congress, *Commission on the National Guard and Reserves: Second Report to Congress*, Washington DC, U.S. Congress, March 1, 2007.

²⁴⁹ Ibid., 18.

²⁵⁰ Ibid., 87.

2. Recommendation: States and DoD Should Form a Catastrophic Disaster Response Partnership Initiative Headed by the National Emergency Management Association (NEMA) and USNORTHCOM

DoD, through USNORTHCOM has an Interagency Coordination Directorate whose mission is to, “Facilitate the integration and synchronization of Interagency activities to ensure mutual understanding, unity of effort and full spectrum support to and from NORAD and USNORTHCOM.” Their motto, as interagency coordination practitioners, is “When you need a friend, it is too late to make one.”²⁵¹ One of the lessons they learned from Katrina was that, “Emergency preparedness and response has traditionally involved civil – military relationships … especially in catastrophic events.”²⁵² During catastrophes, their main civil-military relationship will be with State civil authorities, yet their strategy for interagency coordination does not specifically target State civil authorities who will be responsible for response.²⁵³ Currently, USNORTHCOM does not have a consolidated State engagement plan. It has a Joint Forces Orientation State Engagement Program that it considers an “educational endeavor in collaboration with the NGB” in order to gain a mutual operational understanding and share information between the States and USNORTHCOM.²⁵⁴ Through this program USNORTHCOM reaches The State Adjutant Generals (TAG) and their National Guard units, but not civil authorities such as State emergency management (EM) directors or homeland security (HS) directors. This is because only 19 of 50 States have TAGs filling EM and/or HS directors’ positions.²⁵⁵

One way for DoD to improve its relationship with State civil authorities and reach all 50 State emergency management directors is to have USNORTHCOM form a

²⁵¹ Lance Robinson, “Proceedings of the Workshop on Preparing for and Responding to Disasters in North America,” November 7, 2006 <http://hsdec.org/workshops/Nov%202006%20Conference%20Proceedings%20v1.pdf> accessed 15 October 2007, 4.

²⁵² Ibid., 3.

²⁵³ Barry Nightingale, “NORAD-USNORTHCOM Interagency Coordination,” September 2005 <http://hsdec.org/downloads/IC%20Brief.ppt> accessed 10 October 2007.

²⁵⁴ General Victor E. Renuart, Jr., Commander USNORTHCOM, Statement to The Senate Committee on Homeland Security and Governmental Affairs, 19 July 2007, 6.

²⁵⁵ Department of Defense, *Joint Publication 3-38, Civil Support*, II-13.

partnership initiate specifically with NEMA. This could be done by forming a NORTHCOM/NEMA working group. NEMA is “...the professional association of and for state emergency management directors.” One of its missions is to, “Advance continuous improvement in emergency management through strategic partnerships, innovative programs, and collaborative policy positions.”²⁵⁶ Forming a working group would allow USNORTHCOM officials and emergency managers to gain a more holistic view of what States need and do not need and what DoD can and can not provide. The working group would be able to directly work operational and strategic issues that focused on catastrophic response while at the same time act as a venue to elevate disaster response and support policy issues to the Council of Governors.

The partnership between USNORTHCOM and NEMA would also assist in facilitating closing the knowledge and information gap between DoD and State civil authorities. This is one area that still needs improving. For example, during Hurricanes Andrew and Katrina slow damage assessment resulted in delayed disaster response. On July 19, 2007, Acting Secretary of Defense for Homeland Defense and Americas’ Security Affairs stated before a Congressional Committee that DoD had reengineered and improved the process for civil authorities to request disaster imagery and analysis.²⁵⁷ However, months later when state emergency management officials from Nebraska, Minnesota, South Carolina, Michigan, Missouri, Pennsylvania, Washington, Florida, Illinois, and Oregon were asked:

Does the State know about DoDs reengineered and improved process for civil authorities to request imagery and analysis?²⁵⁸

²⁵⁶ “National Emergency Management Association Mission,” http://www.nemaweb.org/dynamic/previous_News/index.cfm?Date=11/29/2006 accessed 10 October 2007.

²⁵⁷ Peter Verga, Acting Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs, Statement to The Senate Committee on Homeland Security and Governmental Affairs, 19 July 2007, 10.

²⁵⁸ Questionnaire was sent to the above State emergency management offices in September 2007 by the author.

They all replied, they did not know about it or were not informed of it. One State Emergency Management Director stated, “The State does not know about it. In my opinion DoD has not advertised it or conducted any outreach. I only found out about it recently because of TOPOFF.”²⁵⁹

The working group could close the knowledge and information gap by encouraging top DoD civil support and State emergency management officials to attend conferences, seminars, and training events that have historically been attended by DoD or State civil authorities. Army North (ARNORTH) has an online DSCA Phase I and in resident DSCA Phase II course that is currently attended by Federal employees. Courses such as this could be expanded to allow State officials to attend. In 2006, the National Association of Counties conducted a nationwide survey which included responses from 564 counties.²⁶⁰ The study indicated that county emergency management staff had little training or experience with the military even though they were assigned the responsibility as part of their duties. Only 26.5% indicated they had experience with military matters and 21.9% indicated they had training.²⁶¹)

Attendance and briefings at professional conferences such as the annual NEMA, annual State EM, and applicable USNORTHCOM conferences could also be facilitated by the working group; further improving the relationship between DoD and State civil authorities. State Emergency Managers could speak at the DSCA Phase II Course and USNORTHCOM conferences. High ranking DoD officials tasked with leading domestic civil support efforts during a catastrophe could be invited to speak at the National Governors Association, NEMA or Association of Mayors’ Annual Conference. The working group will go a long way to ensure conferences such as April 4-6, 2006, NORTHCOM and

²⁵⁹ According to DHS, TOPOFF is the Nation’s premier terrorism preparedness exercise, involving top officials at every level of government, as well as representatives from the international community and private sector. It features thousands of federal, state, territorial, and local officials. These officials engage in various activities as part of a robust, full-scale simulated response to a multi-faceted threat. It address policy and strategic issues that mobilize prevention and response systems, require participants to make difficult decisions, carry out essential functions, and challenge their ability to maintain a common operating picture during an incident of national significance.

http://www.dhs.gov/xprepresp/training/gc_1179350946764.shtm accessed 10 October 2007.

²⁶⁰ Wes Clarke, *Emergency Management in County Government: A National Survey*. Georgia: The National Association of Counties, August 2006, V.

²⁶¹ Clarke, 4.

ARNORTH conference for Federal Coordinating Officers/Defense Coordinating Officers that focused on orientation and planning for 2006 severe weather season are expanded to include key State stakeholders, i.e. State Coordinating Officers.²⁶²

3. Recommendation: Increase DoD Title 10 and State Civil Authority Liaison Support and Creation of Exchange Program

A post Katrina Congressional report recommended that DoD and DHS should expand the presence DHS officials at USNORTHCOM and other commands and integrate them into planning, training, exercising, and responding to disasters.²⁶³ This recommendation was intended to address and overcome a finding in the same report that commented on the inadequate coordination between DoD and DHS during the initial response to Katrina.²⁶⁴ As of 2006, DoD had 65 personnel working in department level positions in DHS. DoD also had senior military officers assigned to appropriate FEMA headquarters and DCOs assigned to each of the 10 FEMA regional offices.²⁶⁵ (CRS-4) This has strengthened the understanding and cooperation between DoD, DHS, and FEMA.

A similar expansion should occur between DoDs Title 10 and State civil authorities. Currently, DoDs civil support liaison efforts have minimal focus at the State level. They have active duty DCOs who are assigned to each FEMA regional office. The DCOs are responsible to liaison with FEMA and validate any requests for DoD assistance before sending them to USNORTHCOM.²⁶⁶ Their primary responsibility is to work with FEMA and not to liaison with State officials. The DoD position that is more directly

²⁶²Paul McHale, Assistant Secretary of Defense for Homeland Defense, Statement to The House of Representatives Subcommittee on Terrorism, Unconventional Threats and Capabilities on Armed Services, 25 May 2007, 5.

²⁶³ United States Senate, *Hurricane Katrina a Nation Still Unprepared: Special Report of the Committee on Homeland Security and Governmental Affairs*, 617.

²⁶⁴ Ibid., 602.

²⁶⁵ “Homeland Security: Evolving Roles and Missions for United States Northern Command,” *Congressional Research Service*, November 16, 2006 <http://www.fas.org/sgp/crs/homesec/RS21322.pdf> accessed 18 August 2007, 5.

²⁶⁶ “DoD DSCA Phase I: Defense Support of Civil Authorities Studies,” USARNORTH, <https://www.usarnorth.org/public/index.cfm> accessed 24 August 2007.

reasonable for coordinating with States is the Emergency Preparedness Liaison Officer (EPLO). There are approximately 320 reserve/part time EPLOs that the DoD utilizes to interface between services, other agencies, and States to build relationships so that the DoD can better prepare for and respond to the needs of those entities when disaster strikes.²⁶⁷ There are Regional EPLOs (REPLO) and State EPLOs (SEPLO). REPLOs provide liaison support with FEMA regional organizations while SEPLOs support the DCO and work with state emergency operation centers and National Guard Joint Forces Headquarters.²⁶⁸ Unfortunately, since EPLOs are reservists and serve part time, they are limited as to the types and amount of liaison functions they can provide.

One recommendation to increase liaison support to States is for DoD to convert an appropriate number of REPLO positions into Title 10 positions. These full time REPLOs would be assigned to each regional DCO. Their primary responsibility would be to work with the emergency management director of each State within their area of responsibility to ensure that civil as well as National Guard disaster response leadership understood DoD capabilities, limitations, and civil support procedures. On the same note, a full time REPLO could also review state and some local emergency management plans so that State and local risks, vulnerabilities, and limitations could be better understood by DoD Title 10 responders prior to a response. Having fulltime REPLOs dedicated to building relationships with State civil authorities would also provide DoD an opportunity to train up and coming DCOs and future homeland defense leaders.

Based on the productivity of and gains achieved by creating full time REPLOs, the States and DoD could expand the concept and create a DoD State civil authority exchange program. This would provide DoD Title 10 and State personnel to gain knowledge, build relationships, gain trust, and close the civil support gap. Assignments could last from 6 months to two years. Currently only DHS and DoD personnel are participating in such programs even though the States and DoD have as much of a need, if not more, based on post Katrina control debates.

²⁶⁷ DSCA Phase I: Defense Support of Civil Authorities Studies,” USARNORTH.

²⁶⁸ Department of Defense, *Joint Publication 3-38, Civil Support*, II-19,20.

D. CONCLUSION

This thesis began by asking: what could be done to build a collaborative relationship between DoD and State civil authorities so that DoD Title 10 response can be improved for the next catastrophic event. It emphasized the criticality of building that collaborative response relationship due to the potential for greater DoD Title 10 involvement in domestic disaster response based on the ever increasing risk of future catastrophe. The National Planning Scenarios, the 2007 National Intelligence Estimate, and data concerning natural disasters were examined to illustrate this point.

It introduced four historical phases that traced the Federal military's role in domestic disaster response. Those four phases shed insight on the changing domestic response role of the Federal military and examined how and why the response relationship between the military and State civil authorities slowly transformed from collaboration to ambiguity contributing to DoD's eventual slow response to Hurricane Andrew. This was done by analyzing the Federal military response to a variety of past disasters and by examining the impact legislative and doctrinal changes had made on the relationship over the years.

DoD Title 10 initial response to Hurricane Andrew and Katrina was then examined to determine why the relationship between State civil authorities and DoD impacted DoD's initial response. It was shown that though heroic, DoD initial response was slow in part due to the tenuous relationship between DoD and State civil authorities. Unfortunately, Post Katrina debates over the military's role in disaster response worsened the relationship. Those tensions tended to focus efforts more towards debating over who is in control if DoD responds rather than how to improve DoD response. This debate began post Hurricane Andrew, resurfaced during Katrina, and intensified after Katrina.

Fortunately, DoD, DHS, and the States have all taken monumental steps in improving disaster response and have spoken extensively about interagency coordination, cooperation, and relationship building. DoD has partnered with DHS through USNORTHCOM and FEMA, FEMA has partnered with states, and all have partnered with the private sector. However, DoD and State civil authorities have not focused on

partnering and building relationships with one another outside National Guard channels. This is despite Hurricane Andrew and Katrina proving it is just as important, if not more important for State civil authorities and DoD to have a strong relationship built on trust versus arguing over who will be in control of disaster response. Without a strong collaborative relationship between DoD and State civil authorities there is an increased risk that:

- Control versus cooperation will be the focus
- State civil authorities will be hesitant to ask for immediate DoD Title 10 assistance
- The building of knowledge by both DoD and State civil authorities of each others response capabilities and limitations will not take place
- Over the long term DoDs ability to anticipate preparing for and responding to the needs of the States will be diminished

Although basic, the recommendations set forth in this thesis are intended to remove barriers and build a positive and productive relationship between DoD and State civil authorities. Amending The Stafford Act to allow DoD and State civil authorities to work directly with one another for the purposes of strengthening catastrophic response will be a major step. Expanding the purview of the Council of Governors will build trust and high level cooperation between DoD and State governors reducing hesitancy to use DoD assets and tensions over who's in control. A partnership initiative to build interagency cooperation between USNORTHCOM and State civil authorities will provide both parties an improved ability to anticipate needs and requirements in the event of a catastrophe. Finally, increasing DoD Title 10 liaison support to State civil authorities will improve knowledge, planning, exercise coordination, and training specifically targeted towards accounting for the expectations and needs of each state. Combined, the recommendations set forth in this thesis will be a start towards building a collaborative relationship between DoD and State civil authorities. This will shift the focus from debates over control to creating partnerships leading to improved DoD initial response for the next catastrophic disaster.

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